

KHD

2914

1946

.A2

1946

SWTSU

# CONSTITUTION

*of the*

## STATES OF BRAZIL



a172884c

Together with the  
Accompanying Transitory Provisions

# 1946



**AMERICAN BRAZILIAN ASSOCIATION, INC.**

10 ROCKEFELLER PLAZA

NEW YORK 20, N. Y.



# THE CONSTITUTION OF BRAZIL

SEPTEMBER 24, 1946

We, the representatives of the Brazilian people, assembled under the protection of God, in Constituent Assembly to organize a democratic regime, decree and promulgate the following.

## CONSTITUTION OF THE UNITED STATES OF BRAZIL

### Title One

#### THE FEDERAL ORGANIZATION

#### CHAPTER I

##### Preliminary Provisions

Art. 1—The United States of Brazil maintain, under the representative system, the Federation and the Republic.

All power emanates from the people and shall be exercised in its name.

§ 1. The Union includes, in addition to the States, the Federal District and the Territories.

§ 2. The Federal District is the capital of the Union.

Art. 2 — The States may merge with one another, subdivide, or partition in order to annex themselves to others or to form new States, by vote of the respective legislative assemblies, plebescite of the populations directly concerned and approval of the National Congress.

Art. 3 — The Territories may, by special law, constitute themselves into States, subdivide into new Territories or restore themselves as part of the States from which they were separated.

Art. 4 — Brazil shall resort to war only in case of non-applicability or failure of resort to arbitration or pacific means of solution of the conflict, regulated by any international security organization in which it may participate; and in no case shall it embark on a war of conquest, directly or indirectly, alone or in alliance with another State.

Art. 5 — The Union shall have power:

I — to maintain relations with foreign States and to make treaties and conventions with them;

II — to declare war and make peace;

III — to decree, extend and suspend state of siege;

IV — to organize the armed forces, the security of the frontiers and the external defense;

V — to permit foreign forces to pass through national territory or, for reasons of war, to remain therein temporarily;

VI — to authorize the production and control the commerce of war material;

VII — to superintend, throughout the national territory, the services of maritime, air and frontier police;

VIII — to coin and issue money and establish banks of issue;

IX — to control the operations of establishments of credit, capitalization and of insurance;

X — to establish the national plan of transport;

XI — to maintain the postal service and the national air mail;

XII — to develop, directly or through authorization or concession, the services of telegraphs, radio communication, radio broadcasting, interstate and international telephones, air navigation, and railways connecting seaports and national frontiers or crossing the boundaries of a State;

XIII — to organize permanent defense against the effects of drought, rural endemic diseases and floods;

XIV — to grant amnesty;

XV — to legislate upon:

a) — civil, commercial, penal, processual, electoral, aeronautical and labor law;

b) — general norms of law with respect to finance; insurance and social security; defense and protection of health; and penitentiary system;

c) — production and consumption;

d) — policies and bases of national education;

e) — public registries and commercial boards;

f) — organization, instruction, justice and guaranties of the military police and general conditions of their utilization by the Federal Government in cases of mobilization or of war;

g) — expropriation;

h) — civil and military requisitions in time of war;

i) — system of ports and of coastwise navigation;

j) — interstate traffic;

k) — foreign and interstate commerce; institutions of credit, exchange and transfer of values abroad;

l) — subsoil wealth, mining, metallurgy, waters, electric energy, forests, hunting and fishing;

m) — monetary and standard measures systems, title and guarantee of metals;

n) — naturalization, entry, extradition and expulsion of foreigners;

o) — emigration and immigration;

p) — conditions of capacity for the exercise of the technical, scientific and liberal professions;

q) — use of the national symbols;

r) — incorporation of aborigines into the national community.

Art. 6 — The federal power to legislate upon the matters of Art. 5, Number XV, letters b, c, d, f, h, j, l, o, and r does not exclude supplementary or complementary state legislation.

Art. 7 — The Federal Government shall not intervene in the States except:

I — to maintain the national integrity;

II — to repel foreign invasion or that of one State in another;

III — to suppress civil war;

IV — to guarantee the free exercise of any of the state powers;

V — to insure the execution of judicial orders or decisions;

VI — to reorganize the finances of any State which, without reasons of force majeure, may suspend for more than two consecutive years services on its funded external debt;

VII — to assure the observance of the following principles:

a) — representative republican form;

b) — independence and harmony of powers;



c) — temporality of the elective functions, the duration of these latter being limited to that of the corresponding federal functions;

d) — prohibition of reelection of governors and mayors for the period immediately following;

e) — municipal autonomy;

f) — rendering of administrative accounts;

g) — guaranties of judicial power.

Art. 8. — Intervention shall be decreed by federal law in the cases of Numbers VI and VII of the preceding article.

Sole Paragraph — In the case of No. 7, the act alleged to be unconstitutional shall be submitted by the Attorney General of the Republic to examination by the Federal Supreme Court, and, if the latter so declares the intervention shall be decreed.

Art. 9 — The President of the Republic shall have power to decree intervention in the cases of Numbers I to V of Article 7.

§ 1. Issuance of decree shall be dependent upon:

I — In the case of Number V, the requisition of the Federal Supreme Court; or if the order or decision should be of electoral justice, the requisition of the Electoral Supreme Court.

II — In the case of Number IV, the request of the Legislative Power or of the Executive, coerced or impeded, or the requisition of the Federal Supreme Court if the coercion should be exercised against the Judicial Power.

§ 2. In the second case provided for by Article 7, Number II, the intervention shall be decreed only in the invading State.

Art. 10 — In cases other than requisition of the Federal Supreme Court or the Electoral Supreme Court, the President of the Republic shall decree the intervention and shall submit it, without prejudice to its immediate execution to the approval of the National Congress, which if not in session, shall be convened extraordinarily for this purpose.

Art. 11 — The law or decree of intervention shall fix: its scope, its duration and the conditions under which it is to be executed.

Art. 12 — The President of the Republic shall have power to make the intervention effective and if necessary, to appoint the Interventor.

Art. 13 — In the cases enumerated in Article 7, Number VII, and with observance of the provisions of Article 8, Sole Paragraph, the National Congress shall limit itself to suspend the execution of the act alleged to be unconstitutional, if this measure be sufficient for the reestablishment of normality in the State.

Art. 14 — Upon cessation of the motives which may have determined the intervention, the state authorities removed in consequence thereof shall return to the exercise of their offices.

Art. 15 — The Union shall have power to decree taxes upon:

I — importation of merchandise of foreign origin;

II — consumption of merchandise;

III — production, commerce, distribution and consumption, as well as importation and exportation of liquid or gaseous lubricants and fuels of whatever origin or nature, this regime being extended insofar as it may be applicable to the minerals of the country and to electric energy;

IV — income and profits of whatever nature;

V — transfer of funds abroad;

VI — the business of its own economy, acts and instruments regulated by federal law.

§ 1. Articles classified by law as the minimum indispensable to housing, clothing, nourishment and medical treat-

ment of persons of limited economic capacity are exempt from consumption tax.

§ 2. The taxation dealt with in Item III shall have the form of a single tax, which shall fall upon each kind of product. Of the resulting revenue, 60%, as minimum, shall be delivered to the States, to the Federal District and to the municipalities in proportion to their area, population, consumption and production, according to the terms and for the purposes set forth in federal law.

§ 3. The Union may tax the income from obligations of the state or municipal public debt and the profits of agents of States and municipalities, but it cannot do so to an extent greater than fixed for its own obligations and for the profits of its own agents.

§ 4. The Union shall deliver to the municipalities, except those of the capitals, 10% of the total it may collect of the tax dealt with in Number IV, with distribution being made in equal parts and at least half of the amount applied in benefits of a rural nature.

§ 5. The juridical acts to which the Union, the States or the municipalities may be parties, or the instruments to which these acts may be reduced, or again, those included in the tax qualifications established by Arts. 19 and 29, do not come under the provisions of Item VI.

§ 6. In the imminence or in case of foreign war, it is lawful for the Union to decree extraordinary taxes, which shall not be distributed in the manner of Article 21, and shall be eliminated gradually, within five years, counted from the date of the signing of peace.

Art. 16 — The Union shall, moreover, have power to decree the taxes provided for in Article 19 which are to be collected by the Territories.

Art. 17 — The Union is forbidden to decree taxes which are not uniform throughout the national territory or which may result in distinction or preference for one port or another, to the detriment of another of any other State.

Art. 18 — Every State shall govern itself by the Constitution and by the laws it may adopt, with observance of the principles established in this Constitution.

§ 1. To the States are reserved all powers which are not implicitly or explicitly forbidden to them by this Constitution.

§ 2. The States shall provide for the needs of their government and the administration thereof; but in case of public calamity, it being incumbent on the Union to lend them aid.

§ 3. By agreement with the Union, the States may charge federal officials with the execution of state laws and services or of acts and decisions of their authorities; and, reciprocally, the Union may, in matters of its jurisdiction, entrust analogous duties to state officials, providing the necessary expenses.

Art. 19 — The States shall have power to decree taxes upon:

I — territorial property, except urban;

II — transfer of property by reason of death;

III — transfer of real property between the living and its incorporation into the capital of legal entities;

IV — sales and consignments effected by traders and producers, including industrialists, with exemption, however, of the first operation of the small producer, as defined by state law;

V — exportation of merchandise of its production abroad, up to the maximum of 5% ad valorem, any additional (taxes) being prohibited;

VI — acts regulated by state law, those of its judicial service and the business of its economy.

§ 1. The tax on territorial holdings shall not be incident upon farms having an area not exceeding twenty hectares when cultivated by the proprietor, alone or with his family, and who does not own any other property.



§ 2. The taxes upon the transfer of tangible property (II and III) belong to the state in whose territory these may be situated.

§ 3. The tax upon transfer by reason of death, of intangible property, including securities and credits, belongs to the State in whose territory the values of the inheritance may be liquidated or transferred to the heirs, even though the succession may have opened abroad.

§ 4. The States may not tax securities of the public debt issued by other juridical persons of national public right to an extent greater than that established for their own obligations.

§ 5. The tax on sales and consignments shall be uniform, without distinction as to origin or destination.

§ 6. In exceptional cases, the Federal Senate may authorize the increase for a fixed time of the tax upon exportation up to a maximum of 10% ad valorem.

Art. 20 — When the state collection of taxes, except that of the export tax, shall exceed in any municipality other than that of the capital, the total of local revenues of whatever nature, the States shall return (to such municipality) annually, 30% of the excess collected.

Art. 21 — The Union and the States may decree other taxes in addition to those attributed to them by this Constitution, but a federal tax shall exclude an identical state tax. The States shall make collection of such taxes, and, as this is effected, shall deliver 20% of the proceeds to the Union and 40% to the municipalities where the collection has been effected.

Art. 22 — The financial administration, especially the execution of the budget, shall be supervised in the Union by the National Congress, with the aid of the Tribunal of Accounts, and in the States and municipalities according to the manner established in their Constitutions.

Sole Paragraph — In the preparation of the budget the provisions of Articles 73 to 75 shall be observed.

Art. 23 — The States shall not intervene in the municipalities, except in order to regularize their finances, when:

a) — there shall occur lack of punctuality in the service of a loan guaranteed by the State;

b) — they fail to pay, for two consecutive years, their funded debt.

Art. 24 — The State is permitted to create an organ for technical assistance to municipalities.

Art. 25 — The administrative and judicial organization of the Federal District and of the Territories shall be governed by federal law with observance of the provisions of Article 124.

Art. 26 — The Federal District shall be administered by a Mayor appointed by the President of the Republic, and a Chamber elected by the people, with legislative functions.

§ 1. The appointment shall be made after the Federal Senate has given its consent to the name proposed by the President of the Republic.

§ 2. The Mayor shall be dismissible at will.

§ 3. The Judges of the Tribunal of Justice shall receive compensation not inferior to the greatest remuneration of the magistrates of equal rank in the States.

§ 4. The same taxes attributed by this Constitution to the States and to the municipalities shall belong to the Federal District.

Art. 27 — The Union, the States, the Federal District and the municipalities are forbidden to establish limitations upon traffic of whatever nature by means of interstate or intermunicipal taxes, except for the collection of tolls or of taxes destined exclusively for the repayment of expenses incurred for the construction and for the maintenance and improvement of roads.

Art. 28 — The autonomy of municipalities shall be assured:

I — by the election of the Mayors and of the Aldermen of the Municipal Chamber;

II — by self-administration in all matters concerning its own interest and, especially:

a) — the determination and collection of taxes within its jurisdiction and the application of its income;

b) — the organization of their local public services.

§ 1. The Mayors of the capitals and those of the municipalities wherever there should be natural hydro-mineral resorts, when improved by the State or by the Union may be appointed by the Governors of the States or of the Territories.

§ 2. The Mayors of such municipalities as federal law, at the indication of the National Security Council, may declare as military bases or ports of exceptional importance for the external defense of the Country, shall be appointed by the Governors of the States or of the Territories.

Art. 29 — In addition to the revenue which is attributed to them by virtue of Paragraphs 2 and 4 of Article 15 and of the taxes which in whole or in part may be transferred to them by the State, the following taxes shall belong exclusively to the municipalities:

I — urban land and buildings;

II — license;

III — industries and professions;

IV — public diversions;

V — acts of their economy or matters belonging to their particular sphere.

Art. 30 — The Union, the States, the Federal District and the municipalities shall have power to collect:

I — tax on improvements when there shall be an increase in value of real property, as a consequence of public works;

II — taxes;

III — any other revenues which may arise out of the exercise of their attributes and of the utilization of their properties and services.

Sole Paragraph — The tax on improvements cannot be demanded in amount greater than the expense realized or the increase in value which may accrue to the real property benefited by the work.

Art. 31 — The Union, the States, the Municipalities and the Federal District are forbidden:

I — to create distinctions between Brazilians or preferences favoring any States or municipalities as against any others;

II — to establish, subsidize or embarrass the exercise of religious sects;

III — to have relations of alliance or dependence with any sect or church, without prejudice to reciprocal collaboration in furtherance of the collective interest;

IV — to refuse to honor public documents;

V — to levy tax upon:

a) — Property, revenues and services of one another, without prejudice, however, to the taxation of public services granted under concession with observance of the provisions of the sole paragraph of this article;

b) — temples of any sect, property and services of political parties, educational institutions, and social welfare (institutions), provided that their income is applied entirely within the country for the proper purposes;

c) — paper destined exclusively for the printing of newspapers, periodicals and books.

Sole Paragraph — Public services granted under concession do not enjoy tax exemption, except when so determined by the competent power or when the Union may institute such exemption in a special law, with respect to its own services, having in view the common interest.



Art. 32 — The States, the Federal District, and the municipalities may not establish any tax differential between properties of any nature by reason of their origin.

Art. 33 — The States and the municipalities are prohibited to contract external loans without previous authorization of the Federal Senate.

Art. 34 — Included in the property of the Union are:

I — lakes and water courses in territory of its domain or which border on more than one State, serve as boundaries with other countries or extend to foreign territory; as well as river and lake islands in the boundary zones with other countries.

II — the portion of ceded land which may be indispen-

sable for the defense of frontiers, fortifications, military construction, and railways.

Art. 35 — Among the properties of the state domain are included lakes and rivers in territory of the same (State) domain and those which have their source and mouth within the frontiers of the State.

Art. 36 — The powers of the Union are Legislative, the Executive and the Judicial independent and harmonious among themselves.

§ 1. The citizen invested with the function of one of these shall not exercise the function of another, except for the exceptions set forth in this Constitution.

§ 2. It is forbidden for any of the Powers to delegate their attributes.

## CHAPTER II

### The Legislative Power

#### SECTION I

##### Preliminary Provisions

Art. 37 — The Legislative Power is exercised by the National Congress, which is composed of the Chamber of Deputies and the Federal Senate.

Art. 38 — The election for deputies and senators shall be held simultaneously throughout the country.

Sole Paragraph — The conditions of eligibility for the National Congress are:

I — to be a Brazilian as defined in Art. 129, Nos. I and II;

II — to be in full enjoyment of political rights;

III — for the Chamber of Deputies, to be more than twenty-one years old;

IV — for the Federal Senate, to be more than thirty-five years old.

Art. 39 — The National Congress shall meet in the Capital of the Republic, on the 15th of March each year, and shall function until the 15th of December.

Sole Paragraph — The National Congress may be convoked extraordinarily only by the President of the Republic or by initiative of one third of one of the Chambers.

Art. 40 — Each Chamber shall have power to provide its Internal Regulation, for its own organization and police and for the creation and fulfillment of offices.

Sole Paragraph — In the selection of committees, proportional representation of the national parties forming part of the respective Chamber shall be assured as far as possible.

Art. 41 — The Chamber of Deputies and the Federal Senate, under the direction of the administration of the latter, shall meet in joint session in order to:

I — inaugurate the legislative session;

II — elaborate common regulations;

III — receive the oath of the President and of the Vice President of the Republic;

IV — deliberate upon veto.

Art. 42 — In each Chamber, except for constitutional provision to the contrary, resolutions shall be taken by majority of votes, with an absolute majority of their members present.

Art. 43 — The vote shall be secret in the elections and in the cases established by Arts. 45, paragraph 2; 63, No. I; 66, No. VIII; 70, paragraph 3; 211 and 213.

Art. 44 — The deputies and senators are inviolable in the exercise of their mandate for their opinions, words and votes.

Art. 45 — From the time of issuing their diplomas until the inauguration of the subsequent legislature, the members of the National Congress may not be arrested, except in case of *in flagrante delicto* in an unbailable crime, nor may they be prosecuted criminally, without previous permission of their Chamber.

§ 1. In the case of *in flagrante delicto* of an unbailable crime, notice of arrest shall be sent within forty-eight hours to the respective Chamber in order that it may decide upon the imprisonment and authorize the framing of the indictment.

§ 2. The Chamber concerned shall deliberate by vote of the majority of its members.

Art. 46 — Deputies and Senators, whether civilian or military, may not be incorporated into the armed forces except in time of war and by permission of their Chamber, being thereafter, subject to military legislation.

Art. 47 — Deputies and Senators shall receive, annually, an equal subsidy and shall have equal allowances for expenses.

§ 1. The subsidy shall be divided in two parts: one fixed, which shall be paid in the course of the year, and the other variable, corresponding to their attendance.

§ 2. The allowance for expenses and subsidy shall be fixed at the end of each legislature.

Art. 48 — Deputies or Senators may not:

I — from and after issuance of the diploma:

a) — make a contract with a juridical person of public law, autarchic entities or societies of mixed economy, except when the contract adheres to uniform standards;

b) — accept or exercise remunerated commission or employment from a juridical person of public law, autarchic entities, societies of mixed economies or private firms holding concessions for public service.

II — from and after taking office:

a) — enter into any contract with an internal public authority, autarchic entity or enterprise of mixed economy, except when the contract adheres to uniform standards;

b) — occupy public office from which he may be dismissed at will;

c) — exercise another legislative mandate, whether federal, state or municipal;

d) — support a cause against a juridical person of public law.

§ 1. Infractions of the provisions of this article, as well as absence without permission from the sessions for more than six consecutive months shall result in loss of the mandate, declared by the Chamber at which the deputy or senator may belong, upon the initiative of any of its



members or documented representation by a political party or by the Attorney General of the Republic.

§ 2. The deputy or senator whose action may be held to be incompatible with the decorum of the Chamber to which he belongs, by a vote of two-thirds of its members, shall likewise lose his mandate.

Art. 49 — It is permissible for deputies or senators, with previous permission of the Chamber to which they belong, to carry out diplomatic missions of transitory character, and to participate in congresses, conferences and cultural missions abroad.

Art. 50 — During the period of his mandate, a public officer shall be separated from the functions of his office, with time of service being counted in his favor merely for promotion by seniority and retirement.

Art. 51 — A deputy or senator invested with the function of minister of State, federal interventor or secretary of State, shall not lose his mandate.

Art. 52 — In the case of the preceding article and in the case of leave, if permitted by the Internal Regulations, or (in case of) vacancy in the office of deputy or senator, the respective alternate shall be called.

Sole Paragraph — If there should be no alternate to fill the vacancy, the president of the Chamber concerned shall communicate the fact to the Superior Electoral Tribunal to arrange for the election, except if there should remain less than nine months to the end of the term. The deputy or senator elected to the vacancy shall exercise the mandate for the remaining time.

Art. 53 — The Chamber of Deputies and the Federal Senate shall create commissions of inquiry upon a given matter, whenever one-third of their members shall so request.

Sole Paragraph — In the organization of these committees, the criterion established in the Sole Paragraph of Article 40 shall be observed.

Art. 54 — The ministers of State are obliged to appear before the Chamber of Deputies or Federal Senate, or any of their committees, when either Chamber shall call him to personally give information respecting matters previously determined.

Sole Paragraph — Failure to appear, without justification, shall constitute a crime of responsibility.

Art. 55 — The Chamber of Deputies and the Federal Senate, as well as their committees, shall designate day and hour to hear any minister of State who may desire to furnish them with explanations, or request of them legislative measures.

## SECTION II

### The Chamber of Deputies

Art. 56 — The Chamber of Deputies is composed of representatives of the people, elected according to the system of proportional representation by the States, by the Federal District and by the Territories.

Art. 57 — Each legislature shall last four years.

Art. 58 — The number of deputies shall be fixed by law in a proportion not to exceed one for each one hundred and fifty thousand inhabitants, up to twenty deputies, and beyond this limit one for each two hundred and fifty thousand inhabitants.

§ 1. Each Territory shall have one deputy and seven deputies shall be the minimum number for each State and for the Federal District.

§ 2. The representation already fixed may not be reduced.

Art. 59 — The Chamber of Deputies shall have exclusive power:

I — to declare founded or unfounded, by vote of an absolute majority of its members, accusations against the President of the Republic under the terms of Article 88, and against the ministers of State in crimes connected with those of the President of the Republic;

II — to take the initiative in demanding accounts from the President of the Republic by designation of a special committee, when they are not presented to the National Congress within sixty days after the opening of the legislative session.

## SECTION III

### The Federal Senate

Art. 60 — The Federal Senate is composed of representatives of the States and of the Federal District, elected according to the majority principle.

§ 1. Each State, as well as the Federal District, shall elect three senators.

§ 2. The senatorial mandate shall be for eight years.

§ 3. The representation of each State and of the Federal District shall be renewed every four years, alternately, one-third and two-thirds at a time.

§ 4. The senator's alternate elected with him shall replace or succeed him under the terms of Article 52.

Art. 61 — The Vice President of the Republic shall exercise the functions of president of the Federal Senate where he shall only have the deciding vote.

Art. 62 — The Federal Senate shall have exclusive power:

I — to judge the President of the Republic in respect of crimes for which he is responsible and the Ministers of State who may be involved, along with the former, in crimes of the same nature.

II — to prosecute and judge the Ministers of the Federal Supreme Court and the Attorney General of the Republic, in respect of crimes for which they are responsible.

§ 1. When functioning as a Tribunal of Justice, the Federal Senate shall be presided over by the President of the Federal Supreme Court.

§ 2. The Federal Senate shall only pronounce condemnatory sentence by the vote of two-thirds of its members.

§ 3. The Federal Senate may not impose any penalties other than loss of office and prohibition against the exercise of another without prejudice to the action of ordinary justice.

Art. 63 — The Federal Senate shall likewise have exclusive power:

I — to approve, by secret vote, the appointment of magistrates in the cases established by the Constitution, and likewise the appointment of the Attorney General of the Republic, of the Minister of the Tribunal of Accounts, of the Mayor of the Federal District, of the members of the National Economic Council and of the chiefs of diplomatic mission of permanent character.

II — to authorize foreign loans of States, of the Federal District and of the municipalities.

Art. 64 — It shall be incumbent upon the Federal Senate to suspend the execution, wholly or in part, of any law or decree declared unconstitutional by final decision of the Federal Supreme Court.

## SECTION IV

### Attributes of the Legislative Power

Art. 65 — The National Congress shall have power, with the approval of the President of the Republic:

I — to vote the budget;

II — to vote the taxes belonging to the Union and to regulate the collection and distribution of its revenues;

III — to make provisions concerning the federal public debt and the means of its payment;



IV — to create and abolish federal public posts, and fix the salaries attached thereto, in all cases by special law;

V — to vote the law of establishment of armed forces for peacetime;

VI — to authorize opening of credits, credit operations, and issues of legal tender currency;

VII — to transfer temporarily the seat of the Federal Government;

VIII — to resolve questions concerning boundaries of the national territory;

IX — to legislate regarding property of the federal domain, and all matters of the competence of the Union, the provisions of the following article being respected.

Art. 66 — The National Congress shall have exclusive power:

I — to give final decision respecting treaties and conventions celebrated with foreign States by the President of the Republic;

II — to authorize the President of the Republic to declare war and make peace;

III — to authorize the President of the Republic to permit foreign forces to pass through the national territory or, by reason of war, to remain therein temporarily;

IV — to approve or suspend federal intervention when decreed by the President of the Republic;

V — to grant amnesty;

VI — to approve the resolutions of State legislative assemblies regarding merger, sub-division or partitioning of the States;

VII — to authorize the President and the Vice President of the Republic to absent themselves from the Country;

VIII — to judge the accounts of the President of the Republic;

IX — to fix the allowance of expenses and the subsidy of the members of the National Congress, as well as those of the President and Vice President of the Republic;

X — to temporarily move its seat.

## SECTION V

### Laws

Art. 67 — The initiative of laws, excepting the cases of exclusive power, shall belong to the President of the Republic and to any member or committee of the Chamber of Deputies or of the Federal Senate.

§ 1. The initiative of the law establishing the armed forces and of all laws regarding financial matters appertains to the Chamber of Deputies and to the President of the Republic.

§ 2. Excepting the powers of the Chamber of Deputies and of the Federal Senate, as well as of the federal courts, in matters concerning their respective administrative services, the President of the Republic shall have exclusive power of initiative of laws which create positions in existing services, increase salaries, or modify in the course of each legislature the law of establishment of the armed forces.

§ 3. Discussion of bills initiated by the President of the Republic shall begin in the Chamber of Deputies.

Art. 68 — A bill adopted in one of the Chambers shall be reviewed by the other, which, approving it, shall send it for approval or promulgation as prescribed by Arts. 70 and 71.

Sole Paragraph — The revision shall be discussed and voted upon in a single session.

Art. 69 — If a bill of one Chamber is amended in the other, it shall return to the first for pronouncement regarding the modification and approval or disapproval.

Sole Paragraph — The bill shall be sent for approval in the terms (form) in which it was finally voted.

Art. 70 — In the case of Article 65, the Chamber, where the voting of a bill is concluded shall, send it to the President of the Republic who, acquiescing, shall approve it.

§ 1. If the President of the Republic shall judge the bill, in whole or in part, unconstitutional or contrary to the national interests, he may veto same, totally or partially, within ten business days, counted from that on which he receives it, and he shall inform, within the same period, the President of the Senate, the reasons for the veto. If the veto is extended after the legislative session is over, the President of the Republic shall publish the veto.

§ 2. After the lapse of ten days, the silence of the President of the Republic shall be equivalent to approval.

§ 3. When the veto is communicated to the President of the Senate, he shall convoke the two Chambers to inform them in joint session, and if the vetoed bill obtain the vote of two-thirds of the representatives present, it shall be considered approved. In this case, the bill shall be sent to the President of the Republic for promulgation.

§ 4. If the law should not be promulgated within forty-eight hours by the President of the Republic, in the cases of paragraphs 2 and 3, the President of the Senate shall promulgate it; but if the latter should not do so within the same period of time, the Vice President of the Senate shall promulgate it.

Art. 71 — In the cases of Article 66, the elaboration of the law shall be considered closed with the final voting, and it shall be promulgated by the President of the Senate.

Art. 72 — Bills which are rejected or not approved may be renewed only in the same legislative session, by proposal of an absolute majority of the members of either of the Chambers.

## SECTION VI

### The Budget

Art. 73 — The budget shall be one and it shall be obligatory to include in it all the receipts and the allotments of funds, and, discriminating in the expenses all the allotments necessary for the payment of all the public services.

§ 1. The budget law shall not contain any provision foreign to the provision of the receipts and the fixing of the expenses for services previously created. This prohibition shall not include:

I — authorization for opening of supplementary credits and credit operations in anticipation of receipts;

II — application of balances and manner of covering deficits.

§ 2. Budgeting of expenses shall be divided into two parts: one of them fixed, which may not be altered except by virtue of previous law; the other variable, which shall be subject to strict specialization.

Art. 74 — If the budget shall not have been sent for approval by November 30, the one which was in effect shall be extended for the following fiscal year.

Art. 75 — The transfer of budget items, and the granting of unlimited credits, and the opening of special credits without legislative authorization are prohibited.

Sole Paragraph — The opening of extraordinary credits shall be admitted only for urgent or unforeseen necessity, in case of war, internal commotion or public calamity.

Art. 76 — The Tribunal of Accounts shall have its seat in the Capital of the Republic and jurisdiction throughout the national territory.

§ 1. The Ministers of the Tribunal of Accounts shall be appointed by the President of the Republic after approval of the selection by the Federal Senate and shall have the same rights, guarantees, prerogatives and remuneration as the judges of the Federal Courts of Appeals.

§ 2. The Tribunal of Accounts shall exercise, in matters concerning it, the same attributes as the judicial tribunals



set forth in Article 97, and shall likewise have its own staff as its personnel.

Art. 77 — The Tribunal of Accounts shall have power:

I — to follow and control directly, or through delegations created by law, the execution of the budget;

II — to judge the accounts of those responsible for public funds and other property, as well as the accounts of the administrators of autarchic entities;

III — to judge the legality of contracts, retirements, removals and pensions.

§ 1. Contracts which in any wise shall affect receipts or expenditures shall be considered complete only after they have been registered by the Tribunal. Refusal of registry shall suspend the execution of the contract until the National Congress shall issue pronouncement.

§ 2. Any act of public administration which may result in an obligation of payment by the National Treasury or

for its account, shall be subject to registry in the Tribunal of Accounts, either before or afterwards, as the law may determine.

§ 3. In any case, the refusal of registry for lack of credit balance or for charge to an improper credit, shall have prohibitive character. When the refusal shall have other basis, the expenditure may be made after an order by the President of the Republic, registry with reservation by the Tribunal of Accounts and appeal ex-officio to the National Congress.

§ 4. The Tribunal of Accounts shall give its prior opinion, within a period of sixty days, upon the accounts which the President of the Republic is to render annually to the National Congress. If these are not sent within the period of the law, it shall communicate the fact to the National Congress for the purposes of law, presenting to it in either case, a detailed report of the financial and fiscal year terminated.

## CHAPTER III

### The Executive Power

#### SECTION I

##### The President and the Vice President of the Republic

Art. 78 — The Executive Power is exercised by the President of the Republic.

Art. 79 — The President shall be replaced, in case of impediment and succeeded, in case of vacancy in office, by the Vice President of the Republic.

§ 1. In case of impediment or vacancy in office of the President and of the Vice President of the Republic, the President of the Chamber of Deputies, the Vice President of the Federal Senate and the President of the Federal Supreme Court shall be successively called to the exercise of the presidency.

§ 2. In case of vacancy in office of the President and Vice President of the Republic an election shall be held sixty days after the occurrence of the last vacancy. If the vacancies should occur in the second half of the presidential period, the election for both offices shall be held thirty days after the last vacancy by the National Congress in the form established by law. In either case those elected shall complete the period of their predecessors.

Art. 80 — The conditions of eligibility for President and Vice President of the Republic are:

I — be a Brazilian (Article 129, I and II);

II — be in the exercise of political rights;

III — be over thirty-five years of age.

Art. 81 — The President and Vice President of the Republic shall be elected simultaneously throughout the country, one-hundred and twenty days before the expiration of the presidential period.

Art. 82 — The President and Vice President of the Republic shall hold office for five years.

Art. 83 — The President and the Vice President of the Republic shall take office at a session of the National Congress or, if the Congress is not in session, before the Federal Supreme Court.

Sole paragraph — The President of the Republic, upon taking office, shall take the following pledge: "I promise to maintain, defend and comply with the Constitution of the Republic, observe its laws, promote the general welfare of Brazil, maintain its union, its integrity and its independence."

Art. 84 — If the President or the Vice President of the Republic have not taken office thirty days after the date fixed for their doing so, except because of illness, the office

shall be declared vacant by the Supreme Electoral Tribunal.

Art. 85 — The President and the Vice President of the Republic cannot leave the country without permission of the National Congress, under penalty of the loss of their office.

Art. 86 — During the last legislative year previous to the election of the President and the Vice President of the Republic, their subsidies shall be fixed by the National Congress.

#### SECTION II

##### The Attributes of the President of the Republic

Art. 87 — The President of the Republic shall have exclusive power:

I — to approve, promulgate and have the laws published and to issue decrees and regulations for their faithful execution;

II — to veto bills in accordance with Article 70, § 1;

III — to appoint and dismiss the Ministers of State;

IV — to appoint and dismiss the Mayor of the Federal District (article 26, §§ 1 & 2) and the members of the National Council of Economy (article 205, § 1);

V — to fill federal public offices according to law and with the exceptions established by this Constitution;

VI — to maintain relations with foreign States;

VII — to celebrate international treaties and conventions subject to ratification of the National Congress;

VIII — to declare war, upon authorization by the National Congress, but without this authorization in the case of foreign aggression, when such occurs in the interval between legislative sessions;

IX — to make peace, with authorization and subject to ratification of the National Congress;

X — upon authorization by the National Congress, but without this authorization in the interval between legislative sessions, to permit foreign forces to pass through the territory of the Country or, by reason of war, to remain therein temporarily;

XI — to exercise supreme command of the armed forces, administering them through the medium of the competent organs;

XII — to decree total or partial mobilization of the armed forces;

XIII — to decree state of siege under the terms of this Constitution;

XIV — to decree and execute federal intervention under the terms of Articles 7 to 14;



XV — to authorize Brazilians to accept pension, employment or commission from foreign governments;

XVI — to send to the Chamber of Deputies within the first two months of the legislative session, the budget proposal;

XVII — to render annually to the National Congress within sixty days after the opening of the legislative session, the accounts relative to the preceding fiscal year;

XVIII — to send a message to the National Congress upon the occasion of the opening of the legislative session, giving it an account of the state of the Nation and requesting of it the action which he may judge necessary;

XIX — to grant pardon and commute sentences, with hearing before the organs instituted by law.

### SECTION III

#### The Responsibility of the President of the Republic

Art. 88 — The President of the Republic, after the Chamber of Deputies have declared valid the accusation by the vote of the absolute majority of its members, shall be submitted to judgment before the Federal Supreme Court for common crimes or before the Federal Senate for those for which he is officially answerable.

*Sole Paragraph* — When the accusation has been declared founded, the President of the Republic shall be suspended from his functions.

Art. 89 — Acts of the President of the Republic are crimes of his responsibility which make attempt against the Federal Constitution and especially against:

I — the existence of the Union;

II — the free exercise of the Legislative Power, or of the Judicial Power, as well as of the constitutional powers of the States;

III — the exercise of political, individual and social rights;

IV — the internal security of the Country;

V — the probity of the administration;

VI — the budget law;

VII — the safe keeping and legal employment of public funds;

VIII — the fulfillment of judicial decisions.

*Sole Paragraph* — These crimes shall be defined in a special law, which shall establish the norms of the respective prosecution and judgment.

### SECTION IV

#### The Ministers of State

Art. 90 — The President of the Republic is assisted by the Ministers of State.

*Sole Paragraph* — Essential conditions for investiture in the office of Minister of State are:

I — be a Brazilian (Article 129, I and II);

II — be in the exercise of political rights;

III — be over twenty-five years of age.

Art. 91 — In addition to the attributes which the law may fix, the Ministers of State shall have power:

I — to countersign the acts signed by the President of the Republic;

II — to issue instructions for the good execution of the laws, decrees and regulations;

III — to present to the President of the Republic a report of the services of each year carried out in the Ministry;

IV — to appear before the Chamber of Deputies and before the Federal Senate in the cases and for the purposes specified in this Constitution.

Art. 92 — The Ministers of State, in common crimes and those of their responsibility, shall be prosecuted and judged by the Federal Supreme Court; and in crimes connected with those of the President of the Republic, by the organs competent for the prosecution and judgment of the latter.

Art. 93 — In addition to that provided in Article 54, *Sole Paragraph*, the acts defined in law according to the provisions of Article 89, when practised or ordered by the Ministers of State, are crimes of their responsibility.

*Sole Paragraph* — The Ministers of State are responsible for the acts they may sign, even though jointly with the President of the Republic, or which they may practice by his order.

## CHAPTER IV

### The Judicial Power

#### SECTION I

##### Preliminary Provisions

Art. 94 — The Judicial Power is exercised by the following organs:

I — Federal Supreme Court;

II — Federal Court of Appeals;

III — military judges and tribunals;

IV — electoral judges and tribunals;

V — labor judges and tribunals.

Art. 95 — Except for the instructions expressed in this Constitution, judges shall enjoy the following guaranties:

I — life tenure, they being unable to lose office except by judicial sentence;

II — irremovability, except when there should occur some motive of public interest, recognized by the vote of two-thirds of the effective members of the competent higher court;

III — irreducibility of remuneration which, however, shall remain subject to general taxes.

§ 1. Retirement shall be compulsory at seventy years of age or for proven ill health, and optional after thirty years of public service counted in the form of law;

§ 2. Retirement, in any case, shall be decreed with full remuneration.

§ 3. Life tenure shall not extend compulsorily to those judges whose functions are limited to the preparation of cases and the substitution of effective judges, except after ten years of continuous exercise of the office.

Art. 96 — Judges are prohibited:

I — to exercise, even though inactive, any other public function except the secondary and higher teaching, and the cases provided for in this Constitution, under penalty of loss of judicial office;

II — to receive percentages, under any pretext, in the cases subject to his handling and judgment;

III — to exercise political party activity.

Art. 97 — The courts shall have power:

I — to elect their president and other organs of direction;

II — to draw up their internal regulations and organize the auxiliary services filling their offices in the form of law; and likewise to propose to the competent Legislative Power the creation or extinction of offices and the fixing of the respective emoluments;

III — to grant leave and vacations in the terms of the law to their members and to the judges and deputies who may be immediately subordinate to them.



## SECTION II

### The Federal Supreme Court

Art. 98 — The Federal Supreme Court, with seat in the Capital of the Republic and jurisdiction throughout the national territory, shall be composed of eleven justices. This number, upon the proposal of the Federal Supreme Court itself, may be increased by law.

Art. 99 — The Justices of the Federal Supreme Court shall be appointed by the President of the Republic, after the selection has been approved by the Federal Senate, from among Brazilians (Article 129, I and II) of notable juridical wisdom and spotless reputation, who shall not be less than thirty-five years of age.

Art. 100 — The Justices of the Federal Supreme Court, in crimes of their responsibility, shall be prosecuted and judged by the Federal Senate.

Art. 101 — The Federal Supreme Court shall have power:

I — to prosecute and judge in first instance:

a) — the President of the Republic in common crimes;

b) — its own Justices and the Attorney General of the Republic in common crimes;

c) — the Ministers of State, the judges of the federal superior courts, the judges of the Tribunals of Justice of the States, of the Federal District and of the Territories, the Ministers of the Tribunal of Accounts and the chiefs of diplomatic mission in permanent character, both in common crimes and in those of their responsibility, except, with respect to the Ministers of State, that provided in the latter part of Article 92;

d) — litigation between foreign States and the Union, the States, the Federal District or the municipalities;

e) — cases and conflicts between the Union and the States or between these latter;

f) — conflicts of jurisdiction between judges or diverse federal tribunals of justice, between any federal judges or tribunals and those of the States, and between judges or tribunals of different States, including those of the Federal District and those of the Territories;

g) — extradition of criminals, requested by foreign States and the homologation of foreign sentences;

h) — habeas corpus, when the co-actor or the party restrained should be a court, an official, or authority whose acts may be directly subject to the jurisdiction of the Federal Supreme Court; in matters of crime subject to this same jurisdiction in sole instance; when there may be peril of violence being committed before another judge or court can take cognizance of the request;

i) — writs of security against acts of the President of the Republic, of the Administration of the Chamber or of the Senate and of the President of the Federal Supreme Court itself;

j) — the execution of sentences in cases of its original jurisdiction, it having the right to delegate the acts of procedure to an inferior judge or to another court;

k) — rescissory actions of its decisions.

II — to judge on ordinary appeal:

a) — writs of security and "habeas corpus" decided in final instance by local or federal courts when the decision is one of denial;

b) — cases decided by local judges based on contract or treaty between a foreign state and the Union, as well as those in which a foreign state and a person domiciled in the country may be parties;

c) — political crimes.

III — to judge on special appeal cases decided in sole or final instance by other courts or judges:

a) — when the decision is contrary to a provision of this Constitution or the text of a federal treaty or law;

b) — when question is raised as to the validity of the

federal law under the Constitution, and the decision appealed denies application of the law impugned;

c) — when the validity of a law or act of a local government is impugned under this Constitution or under a federal law and the decision appealed holds the law or act valid.

d) — when in the decision appealed the interpretation of the federal law invoked is different from that which has been given to it by any of the other Judicial Tribunals or the Federal Supreme Court itself.

IV — to review in the interest of those condemned, its criminal decisions in completed proceedings.

Art. 102 — With voluntary appeal to the Federal Supreme Court, its President shall have power to grant exequatur to letters rogatory from foreign tribunals.

## SECTION III

### The Federal Court of Appeals

Art. 103 — The Federal Court of Appeals, with seat in the Federal Capital, shall be composed of nine judges, appointed by the President of the Republic, after their selection has been approved by the Federal Senate, two-thirds among magistrates and one-third among lawyers and members of the public ministry with the requirements of Article 99.

Sole Paragraph — The Court may divide itself into chambers or sections.

Art. 104 — The Federal Court of Appeals shall have power:

I — to prosecute and judge in first instance:

a) — rescissory actions of its decisions;

b) — writs of security when the restraining authority is a minister of State, the Court itself or its President.

II — to judge on the level of appeal:

a) — cases decided in first instance, when the Union is involved as plaintiff or defendant, witness or opponent, except in matters of bankruptcy; and in matters of crimes committed against the property, services or interests of the Union, safeguarding the jurisdiction of the electoral and military justice;

b) — the decisions of local judges when denying "habeas corpus", and decisions issued in writs of security when the restraining authority indicated is federal.

III — to review in the interest of those convicted, its criminal decisions in completed proceedings.

Art. 105 — The law may create, in different regions of the country, other Federal Courts of Appeals, through proposal of the court itself and with the approval of the Federal Supreme Court, fixing their seat and territorial jurisdiction and with the observance of the provisions of Articles 103 and 104.

## SECTION IV

### Military Judges and Tribunals

Art. 106 — The Military Superior Court and the inferior tribunals and judges which the law may establish are organs of military justice.

Sole Paragraph — The law shall make provision regarding the number and the manner of selection of the military judges and magistrates of the Military Superior Court, who shall receive remuneration equal to that of the judges of the Federal Court of Appeals, and it shall determine the form of access of its auditors.

Art. 107 — The irremovability assured to members of the Military Justice does not exempt them from the obligation to accompany the forces with which they are to serve.

Art. 108 — The Military Justice shall have power to prosecute and judge military and similar persons in military crimes defined in the law.



§ 1. This special court may be extended to civilians in cases provided in the law, for the repression of crimes against the external security of the Country or against its military institutions.

§ 2. The law shall regulate the application of the penalties of military legislation in time of war.

## SECTION V

### Electoral Judges and Courts

Art. 109 — The organs of electoral justice are:

- I — Superior Electoral Court;
- II — Regional Electoral Courts;
- III — electoral boards;
- IV — electoral judges.

Art. 110 — The Superior Electoral Court, with seat in the Capital of the Republic, shall be composed:

- I — by election in secret ballot:
  - a) — of two judges chosen by the Federal Supreme Court, from among its Ministers;
  - b) — of two judges selected by the Federal Court of Appeals, from among its judges;
  - c) — and of one judge by the Court of Appeals of the Federal District from among its judges.
- II — by appointment of the President of the Republic, of two from among six citizens of notable juridical learning and spotless reputation who may not be incompatible by law, indicated by the Federal Supreme Court.

*Sole Paragraph* — The Electoral Supreme Court shall elect as its President one of the two justices of the Federal Supreme Court, and its vice-presidency shall fall to the other.

Art. 111 — There shall be a Regional Electoral Court in the capital of each State and in the Federal District.

*Sole Paragraph* — Upon proposal of the Electoral Superior Court, a Regional Electoral Court may be created by law in the capital of any Territory.

Art. 112 — The Regional Electoral Courts shall be composed:

- I — by election in secret ballot:
  - a) — of three judges chosen by the Tribunal of Justice from among its members;
  - b) — of two judges chosen by the Tribunal of Justice from among the judges of law.
- II — by appointment of the President of the Republic, of two from among six citizens of notable juridical learning and spotless reputation, who may not be incompatible by law, indicated by the Tribunal of Justice.

*Sole Paragraph* — The President and the Vice President of the Regional Electoral Court shall be chosen among the three chief judges of the Tribunal of Justice.

Art. 113 — The number of judges of the electoral courts shall not be reduced, but it may be increased, up to nine, upon proposal of the Superior Electoral Court and in the form suggested by it.

Art. 114 — The judges of the electoral courts, unless there should be a justified reason, shall serve, compulsorily for two years and may not serve for more than two consecutive two-year periods.

Art. 115 — The alternates of the effective members of the Electoral Courts shall be chosen, on the same occasion and by the same process, in equal number for each category.

Art. 116 — The organization of the electoral boards shall be regulated by law and shall be presided over by a judge of law, and their members shall be appointed, after approval of the Regional Electoral Court, by its President.

Art. 117 — The judges of law shall have power to exercise, with full jurisdiction and in the form of the law, the functions of electoral judges.

*Sole Paragraph* — The law may grant other judges powers for functions other than those of decision.

Art. 118 — For as long as they shall serve, the electoral magistrates shall enjoy, insofar as may be applicable to them, the guaranties established in Numbers I and II of Article 95, and, as such, shall not have other incompatibilities except those declared by law.

Art. 119 — The law shall regulate the powers of the electoral judges and courts. Among the attributes of the electoral justice, shall be included:

- I — the registry and cancellation of registry of political parties;
- II — electoral division of the Country;
- III — electoral registration;
- IV — the fixing of the date of elections, when not determined by constitutional or legal provision;
- V — the electoral process, the tallying of elections and the issuance of diplomas to those elected;
- VI — cognizance and decision of allegations of ineligibility;
- VII — the prosecution and judgment of electoral crimes and common crimes which may be connected therewith, and likewise those of "habeas corpus" and writ of security in electoral matters;
- VIII — cognizance of complaints relative to obligations imposed by law upon political parties, with respect to their accounting and to the ascertainment of the origin of their funds.

Art. 120 — Decisions of the Superior Electoral Court may not be appealed, except those which may declare the invalidity of a law or act contrary to the Federal Constitution, and those denying "habeas corpus" or writ of security, in which latter cases appeal may be had to the Federal Supreme Court.

Art. 121 — Appeal may be had from the decisions of Regional Electoral Courts to the Supreme Electoral Court only when:

- I — they be taken contrary to express provision of law;
- II — there occur difference in interpretation of law between two or more electoral courts;
- III — they bear upon the issuance of diploma in federal and state elections.
- IV — deny "habeas corpus" or writ of security.

## SECTION VI

### Labor Judges and Courts

Art. 122 — The organs of labor justice are:

- I — Superior Labor Court;
- II — Regional Labor Courts;
- III — boards or judges of conciliation and judgment.

§ 1. The Superior Labor Court has its seat in the Federal Capital.

§ 2. The law shall fix the number of the Regional Labor Courts and their seats.

§ 3. The law shall establish the boards of conciliation and judgment and may attribute their functions to the judges of law in districts where boards are not established.

§ 4. Other organs of labor justice may be created by law.

§ 5. The constitution, investiture, jurisdiction, powers, guaranties and conditions of the exercise of organs of labor justice shall be regulated by law, preserving the equality of representation of employees and employers.



Art. 123 — The labor justice shall have power to conciliate and judge individual and collective disputes between employees and employers, as well as other controversies arising out of labor relations ruled by special legislation.

## *Title Two*

### **STATE JUSTICE**

Art. 124 — The States shall organize their justice with observance of Articles 95 to 97 and also the following principles:

I — the judiciary division and organization shall be inalterable during five years from the date of the law establishing them, except for well-grounded proposal put forward by the Tribunal of Justice;

II — courts of jurisdiction inferior to the Tribunals of Justice may be created;

III — entry into life-tenure magistracy shall be dependent upon competitive examinations, organized by the Tribunal of Justice with collaboration of the Sectional Council of the Order of Attorneys of Brazil, and indication of the candidates shall be made whenever possible in a triplicate list;

IV — the promotion of judges shall be made from one classification to another by length of service and by merit, alternately, and, in the second case, shall be dependent upon a triplicate list organized by the Tribunal of Justice. An equal proportion shall be observed in accession to this Tribunal, except as provided in Item V of this article. For this purpose, in cases of merit, the triplicate list shall be composed of names selected from among judges of any classification. In cases of length of service, which shall be ascertained in the last classification, the Tribunal shall decide first whether the judge with longest service is to be indicated; and if this one is refused by three-quarters of the judges, the voting shall be repeated with respect to the next in line, and so on successively, until the selection is fixed. Only after two years of effective service in the respective classification may the judge be promoted.

V — in the composition of any court, a fifth of the places shall be filled by attorneys and members of the public ministry, of renowned merit and spotless reputation, with at least ten years of forensic practice. For each

§ 1. Disputes relative to labor accidents are within the jurisdiction of ordinary courts.

§ 2. The law shall specify the cases in which decisions in collective disputes might establish norms and conditions of work.

vacancy, the Tribunal shall vote upon a triplicate list, in secret session and with secret ballot. If a member of the Public Ministry is selected, the resulting vacancy shall be filled by an attorney;

VI — the remuneration of the judges shall be fixed at an amount not inferior to that received, in any form, by the secretaries of State; and the other life-tenure judges, with a difference not to exceed thirty percent between one classification and another, and attributing to those of highest classification not less than two-thirds of the remuneration of the chief judges;

VII — in case of transfer of the seat of the court, the judge is authorized to move to the new seat or to a district of equal classification or to request placement on an available list with full remuneration;

VIII — only by proposal of the Tribunal of Justice may the number of its members or of the members of any other court be altered;

IX — the Tribunal of Justice shall have exclusive power to prosecute and judge inferior judges in ordinary crimes and in those of their responsibility;

X — a temporary justice of the peace may be instituted, with the judicial attributes of substitution, except for judgment of final or appellate cases, and with powers for the licensing and celebration of marriages and other acts which the law may determine.

XI — magistrates may be created with investiture in office limited to a certain time and powers to judge cases of small value. These judges may substitute for life-tenure judges;

XII — state military justice, organized with observance of the general precepts of federal law (Article 5, Number XV, f), shall have as organs of first instance the councils of justice and as organ of second instance a special court or the Tribunal of Justice.

## *Title Three*

### **THE PUBLIC MINISTRY**

Art. 125 — The law shall organize the Public Ministry of the Union in conjunction with the ordinary, military, electoral and labor courts.

Art. 126 — The Federal Public Ministry has as its head the Attorney General of the Republic. The Attorney General appointed by the President of the Republic, after approval of the selection by the Federal Senate from among citizens with the requisites indicated in Article 99, is dismissible at will.

*Sole Paragraph* — The Union shall be represented in court by the attorneys of the Republic, but the law may entrust this representation, in the districts of the interior, to the local public ministry.

Art. 127 — The members of the Public Ministry of the Union, of the Federal District and of the Territories, shall enter into the initial positions of the career by competition. After two years of service, they may not be dismissed except by judicial sentence or administrative process allowing them the most ample defense; nor shall they be removed, except upon representation put forward by the head of the Public Ministry, based upon the convenience of the service.

Art. 128 — In the States, the Public Ministry shall also be established on a career basis, with observance of the precepts of the preceding article, as well as that of promotion from one classification to another.

## *Title Four*

### **DECLARATION OF RIGHTS**

#### **CHAPTER I**

#### *Nationality and Citizenship*

Art. 129 — The following are Brazilians:

I — persons born in Brazil, even though of foreign parents, if the latter are not resident at the service of the government of their country;

II — the children of a Brazilian father or mother born in a foreign country, if the parents are at the service of Brazil, or, if they should not be, if they come to reside in the country. In this case, after the attainment of majority they



should, in order to conserve Brazilian nationality, choose it within four years;

III — those who acquired Brazilian nationality under the terms of Article 69, Numbers IV and V, of the Constitution of February 24, 1891;

IV — foreigners naturalized in the form which the law may establish, it being required of the Portuguese merely that they reside in the country one uninterrupted year and be of good moral standing and physical health.

Art. 130 — A Brazilian shall lose his nationality:

I — who, by voluntary naturalization, shall acquire another nationality;

II — who, without permission of the President of the Republic, shall accept a commission, employment, or pension from a foreign government;

III — who, by judicial sentence, in process established by law, shall have his naturalization cancelled by reason of exercising activity injurious to the national interest.

Art. 131 — Electors shall be Brazilians more than eighteen years of age who register as prescribed by law.

Art. 132 — The following may not register as electors:

I — the illiterate;

II — those who do not know how to express themselves in the national tongue;

III — those who may be deprived temporarily or permanently of political rights.

*Sole Paragraph* — enlisted soldiers also may not register as electors, except officer candidates, sub-officers, sub-lieutenants, sergeants, and students of military schools of higher instruction.

Art. 133 — Registration and voting are obligatory for Brazilians of both sexes, save the exceptions established by law.

Art. 134 — Suffrage is universal and direct; the vote is secret; and the proportional representation of the national political parties is assured in the form which the law may establish.

Art. 135 — Political rights shall be suspended or lost only in the following cases:

§ 1. They shall be suspended:

I — for absolute civil incapacity;

II — for criminal conviction, for as long as its effects shall last;

§ 2. They shall be lost:

I — in the cases established in Article 130;

II — for the refusal provided for in Article 141, § 8;

III — for the acceptance of foreign title of nobility or decoration which may imply restriction of right or duty before the State.

Art. 136 — The loss of political rights carries with it, simultaneously, the loss of public office or function.

Art. 137 — The law shall establish the conditions of reacquisition of political rights and of nationality.

Art. 138 — Those who may not be registered and those mentioned in the *Sole Paragraph* of Article 132 may not be elected.

Art. 139 — The following also may not be elected:

I — as President and Vice President of the Republic:

a) — a President who may have held the office for any space of time in the period immediately preceding, and likewise the Vice President who may have succeeded him or who, during the six months preceding the election, may have substituted for him;

b) — until six months after definite separation from their functions, the governors and federal interventors appointed in accordance with Article 12, the ministers of State and the Mayor of the Federal District;

c) — until three months after definitive cessation of their functions, the ministers of the Federal Supreme Court, and the Attorney General of the Republic, the chiefs of staff, the judges, the attorney-general and the regional attorneys of the electoral justice, the secretaries of State and the chiefs of police;

II — as governor:

a) — in each State, a governor who may have held the office for any period of time in the period immediately preceding, or person who may have succeeded him, or who may have substituted for him within the six months preceding the election; and a federal interventor appointed in the form of Article 12, who may have exercised the functions for any space of time in the governmental period immediately preceding;

b) — until one year after definitive separation from his functions, the President, the Vice President of the Republic, and any substitutes who may have assumed the presidency;

c) — in each State, until three months after definitive cessation of their functions, the secretaries of State, the chiefs of the military districts, the commandants of police, the federal and state magistrates and the chief of the Public Ministry;

d) — until three months after definitive cessation of their functions, those who may be ineligible for President of the Republic, except those mentioned in items a) and b) of this number;

III — as Mayor, anyone who may have held the office in the period immediately preceding, as well as anyone who may have succeeded him or who, within the six months preceding the election, may have substituted for him; and, likewise, for the same period, the police authorities with jurisdiction in the municipality;

IV — for the Chamber of Deputies and the Federal Senate, the authorities mentioned in Numbers I and II, under the same conditions established therein, if in office during the three months preceding the election;

V — for the legislative assemblies, the governors, secretaries of State, and the chief of Police, until two months after definitive cessation of their functions.

*Sole Paragraph* — The precepts of this article apply to the office-holders, both regular and provisional, in the offices mentioned.

Art. 140 — Likewise ineligible, under the same conditions set forth in the preceding article are the spouse and relatives or kin, to the second degree:

I — of the President and the Vice President of the Republic or of the substitute who may assume the presidency:

a) — for President and Vice President;

b) — for Governor;

c) — for Deputy or Senator, except in case of having already exercised the mandate or of having been elected simultaneously with the President and Vice President of the Republic;

II — of the Governor or Federal Interventor, appointed in accordance with Article 12 in each State:

a) — for Governor;

b) — for Deputy or Senator except in case of having already exercised the mandate or of having been elected simultaneously with the Governor;

III — of the Mayor for the same office.



## CHAPTER II

### *Individual Rights and Guaranties*

Art. 141 — The Constitution assures Brazilians and foreigners residing in the country the inviolability of the rights respecting life, liberty, individual security, and property in the following terms:

- § 1. All are equal before the law.
- § 2. No one may be obliged to do or refrain from doing anything except by virtue of the law.
- § 3. The law shall not prejudice any vested right, any juridical act accomplished, or an adjudged matter.
- § 4. The law shall not exclude any injury to individual rights from consideration by the judicial power.
- § 5. The manifestation of thought is free and shall not be dependent upon censorship, except as regards public spectacles and amusements, and each of these shall be responsible in the cases and in the form which the law may establish, for any abuses they may commit. Anonymity is not permitted. The right of reply is assured. The publication of books and periodicals shall not be dependent upon license from the public power. However, propaganda for war, or violent processes to overthrow the political and social order or prejudices of race or of class shall not be tolerated.
- § 6. The secrecy of correspondence is inviolable.
- § 7. The liberty of conscience and creed is inviolable, and the free exercise of religious sects is assured, as long as they shall not be contrary to public order or good morals. Religious associations shall acquire juridical personality in the form of the civil law.
- § 8. No one shall be deprived of any of his rights by reason of religious, philosophic or political conviction, unless he shall invoke it in order to exempt himself from any obligation, duty or service required by the law of Brazilians in general, or shall refuse those which the same law may establish as substitutes for those duties in order to meet a conscientious excuse.
- § 9. Without constraint of the ones favored, religious ministration shall be tendered by a Brazilian (art. 129, Nos. I and II), to the armed forces, and likewise, when solicited by interested parties or their legal representatives, in establishments of collective internment.
- § 10. Cemeteries shall have secular character and shall be administered by the municipal authority. All religious confessions shall be permitted to practise their rites therein. Religious associations may maintain private cemeteries, in accord with the law.
- § 11. All may meet, without arms, without any intervention on the part of the police except to assure public order. With this object in view, the police may designate the place for the meeting, with the understanding that proceeding in this manner, they (the Police) do not frustrate the meeting or render it impossible.
- § 12. Freedom of association for legitimate purposes is assured. No association may be compulsorily dissolved except by virtue of judicial sentence.
- § 13. The organization, registration, or functioning of any political party or association whose program or action may be contrary to the democratic regime based upon plurality of parties and guaranty of the fundamental rights of men, is prohibited.
- § 14. The practice of any profession shall be free, with observance of such conditions of capacity as the law may establish.
- § 15. The home is the inviolable refuge of the individual. No one may enter therein at night, without the consent of the dweller, except to go to the assistance of the victims of a crime or a disaster, nor during the day, except in the cases and in the manner established by law.
- § 16. The right of property is guaranteed except for the case of expropriation for public necessity or utility, or social

interest, with prior and just indemnization in money. In case of imminent peril, such as war or domestic commotion, the competent authorities may use private property, if the public good so requires, with the assurance of the right to indemnization at a later date.

§ 17. Industrial inventions belong to their authors, to whom the law shall guarantee temporary privilege, or, if diffusion should be in the collective interest, it shall grant a just reward.

§ 18. Ownership of industrial and commercial marks is assured, as well as exclusivity in the use of a trade name.

§ 19. To the authors of literary, artistic or scientific works shall belong the exclusive right to reproduce them. The heirs of authors shall enjoy this right for such time as the law may determine.

§ 20. No one shall be imprisoned except in the act of committing a crime or, by written order issued by a competent authority, in the cases specified by law.

§ 21. No one shall be taken to prison or detained therein if he furnishes the bond permitted by law.

§ 22. The imprisonment or detention of any person shall be immediately communicated to the competent judge, who if it should not be legal, shall give release and, in the cases provided for by law, shall hold the restraining authority responsible.

§ 23. "Habeas corpus" shall be granted whenever anyone shall suffer or be threatened with suffering violence or restraint in his freedom of movement, by illegality or abuse of power. In disciplinary transgressions, "habeas corpus" shall not apply.

§ 24. To protect clear and certain rights not covered by "habeas corpus," a writ of security shall be granted, whatever may be the authority responsible for the illegality or abuse of power.

§ 25. The accused are assured of full defense with all the means and resources essential thereto, commencing with the note of guilt, which, signed by the competent authority, with the names of the accuser and of the witnesses, shall be delivered to the prisoner within 24 hours. The criminal instruction shall be contradictory (contestable).

§ 26. There shall be no privileged court nor exceptional judges and tribunals.

§ 27. No one shall be prosecuted or sentenced except by the competent authority and as provided by a prior law.

§ 28. The institution of the jury is maintained, with such organization as the law may give to it, provided that the number of its members shall be always odd and the secrecy of its voting shall be guaranteed, as shall be the fullness of the defense of the accused and the sovereignty of the verdicts. The judgment of crimes against life shall obligatorily be of its jurisdiction.

§ 29. Penal law shall determine the individualization of the punishment and shall only be retroactive when it shall so benefit the accused.

§ 30. No penalty shall extend beyond the person of the delinquent.

§ 31. There shall be no penalty of death, of banishment, of confiscation, nor of perpetual character. Exception is made, with respect to the death penalty, of the provisions of military law in time of war with a foreign country. The law shall provide for the sequestration and loss of property, in the case of illicit enrichment, through influence or through abuse of public office or function, or of employment in an autarchic entity.

§ 32. There shall be no civil imprisonment for debt, fines or costs, except in the case of an unfaithful custodian and of failure to fulfill one's obligation of maintenance, as provided by law.



§ 33. Extradition of a foreign subject shall not be granted for political crimes or crimes of opinion nor of a Brazilian, in any case.

§ 34. No tax shall be demanded or increased except as the law shall establish, no tax shall be collected without previous budgetary authorization in each fiscal year, exception made, however, of the customs tariff and of taxes levied by reason of war.

§ 35. The public power shall grant judicial assistance to the needy in such manner as the law may establish.

§ 36. The law shall assure:

I — the rapid despatch of documents in transit through the public departments;

II — the communication to the interested parties of the decisions given and the information to which the latter refer;

III — the issuance of certificates or authenticated copies, solicited for the defense of individual rights;

IV — the issuance of certificates or authenticated copies, solicited for the elucidation of citizens concerning public affairs, with restriction, in respect of the last named, of the cases in which the public interest impose secrecy.

§ 37. The right is assured to any person whomsoever to make representation against abuses by authorities and to take steps to hold them responsible, by petition addressed to the public powers.

§ 38. Any citizen shall be a legitimate party to plead the annulment or declaration of nullity of acts injurious to the patrimony of the Union, of the States, or of the Municipalities, and likewise of autarchic entities and those of mixed economy.

Art. 142 — In time of peace any person may enter the national territory with his goods and remain therein or depart therefrom, so long as the precepts of the law are respected.

Art. 143 — The Federal Government may expel from the national territory any foreigner injurious to the public order, unless his spouse be a Brazilian and have a Brazilian child (art. 129, nos. I and II), dependent upon the paternal economy.

Art. 144 — The specification of the rights and guaranties expressed in this Constitution does not exclude other rights and guaranties resulting from the regime and from the principles which it adopts.

## Title Five

### THE ECONOMIC AND SOCIAL ORDER

Art. 145 — The economic order shall be organized according to principles of social justice, conciliating the liberty of initiative with increasing the value of human labor.

Sole Paragraph — Everyone is assured work that enables a dignified existence. Work is a social obligation.

Art. 146 — The Union may intervene in the economic sphere and monopolize certain industries or activities, by means of special law. The intervention shall be based upon the public interest, and shall be limited by the fundamental rights assured in this Constitution.

Art. 147 — The use of property shall be conditioned upon social welfare. The law may, with observance of the provisions of Article 142 § 16, promote the fair distribution of property, with equal opportunities for all.

Art. 148 — the law shall restrain any and every form of abuse of economic power, including the unions or groups of concerns, either individual or social, regardless of their nature, with the aim of dominating the national markets, eliminating competition and arbitrarily increasing profits.

Art. 149 — The law shall regulate the system of banks of deposit, insurance companies, capitalization companies and the like.

Art. 150 — The law shall create specialized credit establishments to assist agriculture and stock raising.

Art. 151 — The law shall make provisions for the regulating of concerns holding concessions for federal, state or municipal public services.

Sole Paragraph — The control and revision of tariffs relating to services carried on under concession, shall be determined, so that the profits of the concessionaires, not to exceed a fair remuneration of their capital, may permit them to meet the need for improvement and the expansion of these services. The law shall apply to the concessions granted in the previous régime of tariffs stipulated for the entire duration of the contract.

Art. 152 — Mines and other subsoil wealth, as well as waterfalls, constitute property distinct from that of the soil for the purpose of industrial development or use.

Art. 153 — The employment of mineral resources, and those of hydraulic energy, depend upon federal authorization or concession, as provided by law.

§ 1. Authorizations or concessions shall be granted exclusively to Brazilians, or to concerns organized in the country, the landowner being assured preference for the development. The preferential rights of the landowner shall be regulated in accordance with the nature of the mines or deposits.

§ 2. The utilization of hydraulic power of reduced capacity shall not depend upon authorization or concession.

§ 3. Once the conditions demanded by law are satisfied, among these being the possession of the required technical and administrative services, the States shall exercise in their territories the powers contained in this article.

§ 4. In the cases indicated by law and having in view the general interest, the Union shall assist the states in the studies pertaining to thermo-mineral waters of medicinal application, and in the equipment of resorts destined for their use.

Art. 154 — Usury, in any form, shall be punished by law.

Art. 155 — Coastwise navigation for the transport of merchandise is the exclusive prerogative of national ships, except in cases of public necessity.

Sole Paragraph — The owners, charterers and commanders of national ships, as well as at least two-thirds of the members of their crews, shall be Brazilians. (Art. 129, Nos. I & II).

Art. 156 — The law shall facilitate the settlement of men in the fields, establishing plans for the colonization and use of public lands. For this purpose, preference shall be given to nationals and, from among these, the inhabitants of impoverished zones and the unemployed.

§ 1. In the concession of ceded lands, the States shall assure squatters (posseiros), who habitually dwell thereon, the preference for the purchase of the land, up to twenty-five hectares.

§ 2. Without the previous authorization of the Federal Senate, no sale or concession of public lands exceeding an area of ten thousand hectares may be effected.

§ 3. Anyone, who, not being either a rural nor an urban landowner, occupies for ten uninterrupted years, without opposition and without recognition of other ownership, a piece of land not exceeding the area of twenty-five hectares, and makes it productive by his work, and dwells thereon,



shall acquire ownership of the land, by declaratory sentence duly transcribed.

Art. 157 — Labor and social security legislation shall be governed by the following precepts as well as others aiming to improve the conditions of workers:

I — a minimum salary calculated to cover, according to the conditions of each region, the normal necessities of the worker and his family;

II — prohibition of salary differences for the same worker because of age, sex, nationality, or civil status;

III — higher pay for night work than for day work.

IV — obligatory and direct participation of the worker in the profits of concerns on the terms and in the way provided by law;

V — daily work not exceeding eight hours, except in the cases and conditions provided by law;

VI — weekly rest with pay, preferably on Sundays, and within the limits of the technical requirements of the concerns, on the civil and religious holidays in accordance with the local tradition;

VII — annual leave, with pay;

VIII — hygiene and safety in all work;

IX — prohibition of work for minors under fourteen; of work in unhealthful industries, for women and for minors under eighteen; and of night work for minors under eighteen; with observance, in every instance, of the conditions established by law and the exceptions admitted by the competent authorities;

X — the right of a woman to rest before and after giving birth, without prejudice to her employment and salary;

XI — fixation of the percentage of Brazilian employees, which are to be maintained compulsorily in the public services granted under concession and in establishments in certain lines of commerce and industry;

XII — security of employment in concerns or in rural development, as well as indemnization to the dismissed worker, in the cases and on the conditions which the law may establish;

XIII — recognition of the collective labor agreements;

XIV — medical and sanitary aid, including hospitalization and preventive treatment for the worker, and to expectant mothers;

XV — assistance to the unemployed;

XVI — social security, by means of contribution from the Union, from the employer and from the employee for the benefit of motherhood, and against the consequences of old age, invalidity, illness, or death;

XVII — obligation of the employer to establish insurance against labor accidents;

Sole Paragraph — There shall be no distinction as to rights, guarantees and benefits, between manual or technical labor and intellectual labor nor between those who, respectively, exercise such callings.

Art. 158 — The right to strike is recognized, the exercise of which shall be regulated by law.

Art. 159 — Professional or syndical association is permitted; the form of constitution, the legal representation in the collective labor contracts, and the exercise of functions delegated by the public power being regulated by law.

Art. 160 — The ownership of journalistic concerns, either political or simply for news, as well as radio broadcasting, is forbidden to corporations having bearer shares, and to foreigners. Neither the latter, nor juridical persons, except the national political parties, may be shareholders of the corporations owning such concerns. The principal responsibility of them, as well as their intellectual and administrative orientation, shall be the exclusive prerogative of Brazilians. (Art. 129, Nos. I & II)

Art. 161 — The law shall regulate the exercise of the liberal professions, as well as the revalidation of diplomas issued by foreign educational institutions.

Art. 162 — The selection, entry, distribution, and settlement of immigrants shall be subject to the requirements of the national interest, as provided by law.

Sole Paragraph — It shall devolve upon a federal administrative entity to orient those services, and coordinate them with those of naturalization and colonization, nationals being utilized as far as possible.

## *Title Six*

### **THE FAMILY, EDUCATION AND CULTURE**

#### **CHAPTER I**

##### *The Family*

Art. 163 — The family is constituted by marriage that cannot be dissolved and shall have right to the special protection of the State.

§ 1. Marriage shall be civil, and its celebration gratis. Religious marriage shall be equivalent to civil marriage, if performed with observance of the impediments established by the law, and in conformity with its provisions, and request to this effect be made by the celebrant or any party at interest, provided that the act is registered in the civil registry.

§ 2. Religious marriage celebrated without the formalities of this article shall have civil effects if, at the request

of the betrothed, it be transcribed in the civil registry after ratification before the civil authorities.

Art. 164 — Assistance to mothers, infants and adolescents is obligatory throughout the national territory. The law shall provide assistance to families with numerous offspring.

Art. 165 — The order of succession to the estate of a foreigner, if located in Brazil, shall be regulated by the Brazilian law and for the benefit of the spouse or of the Brazilian children, in cases where the national law of *de cujus* may not favor them to a greater extent.

#### **CHAPTER II**

##### *Education and Culture*

Art. 166 — Education is the right of everyone, and shall be administered at home and in the school. It shall be inspired by the principles of liberty, and the ideals of human solidarity.

Art. 167 — Teaching, in its different branches, shall be

administered by the public powers and is open to private initiative, provided the laws which regulate it are duly respected.

Art. 168 — Teaching legislation shall adopt the following principles:



I — primary schooling is obligatory and shall be given only in the national language;

II — the official primary schooling is free to all; the official schooling subsequent to the primary schooling, shall be free for whoever proves lack or insufficiency of means;

III — the industrial, commercial and agricultural establishments employing more than one hundred persons are obligated to maintain free primary teaching for their employees and their employees' children;

IV — industrial and commercial concerns are obligated to administer, in cooperation, teaching to minors in their employ in such form as the law may establish, having regard to the rights of the teachers;

V — religious instruction shall be a part of the teaching schedule of official schools, matriculation therein shall be optional, and shall be administered in accordance with the religious confession of the pupil, manifested by him, if he is capable, or by his legal representative or person responsible for him;

VI — for the filling of teaching positions, in official colleges, or in the free or official high schools a competition based on degrees and examinations shall be demanded. Professors admitted by competition of degrees and examinations shall be assured tenure for life;

VII — the liberty of professorship is guaranteed.

Art. 169 — Annually, the Union shall apply not less than ten per cent, and the States, the Federal District, and the municipalities not less than twenty per cent of their revenue

derived from taxes to the maintenance and development of teaching.

Art. 170 — The Union shall organize the Federal teaching system, as well as that of each territory.

Sole Paragraph — Federal teaching system shall have a supplementary character, extending throughout the country within the strict limits of the local deficiency.

Art. 171 — Each State, as well as the Federal District, shall organize its own teaching system.

Sole Paragraph — For the development of these teaching systems, the Union shall cooperate with pecuniary aid, which, with respect to the primary teaching, shall be derived out of the respective National Fund.

Art. 172 — Each teaching system shall obligatorily have services of educational assistance to assure the needy pupils, conditions of scholastic efficiency.

Art. 173 — The sciences, letters, and arts are free.

Art. 174 — Support of culture is a duty of the State.

Sole Paragraph — The law shall promote the creation of research institutes, particularly in connection with establishment of higher education.

Art. 175 — The works, monuments, and documents of historical and artistic value, as well as the natural monuments, landscapes and places endowed with peculiar beauty, are under the protection of the public power.

## Title Seven

### THE ARMED FORCES

Art. 176 — The Armed Forces, constituted essentially by the Army, Navy, and Air Force, are permanent national institutions, organized on a basis of hierarchy and discipline, under the supreme authority of the President of the Republic, and within the limit of the law.

Art. 177 — It is the mission of the Armed Forces to defend the Country and guarantee the constitutional powers, as well as law and order.

Art. 178 — The political direction of war, and the selection of the commanders-in-chief of the forces in operation shall be incumbent on the President of the Republic.

Art. 179 — The problems pertaining to the defense of the Country shall be studied by the Council of National Security and by the special organs of the Armed Forces, charged with their preparation for mobilization and military operations.

§ 1. The Council of National Security shall be under the direction of the President of the Republic and therein shall take part, as effective members, such Ministers of State and chiefs of staff, as the law may determine. In cases of impediment, the President of the Republic shall appoint a substitute.

§ 2. The law shall regulate the powers and the functions of the Council of National Security.

Art. 180 — In the zones indispensable to the defense of the country, the following shall not be permitted, without consent of the Council of National Security:

I — any act whatsoever, relating to the concession of lands, the opening of means of communication and the installation of transmitting apparatus;

II — construction of bridges and international roads;

III — establishment or development of any industries affecting the national security.

§ 1. The law shall specify the zones indispensable to the national defense, shall regulate their utilization and shall insure the predominance of Brazilian capital and labor in the industries situated therein.

§ 2. The authorizations referred to in Nos. I, II and III may, at any time, be modified or cancelled by the Council of National Security.

Art. 181 — All Brazilians are obligated to military service or other duties necessary to the defense of the country under the terms and penalties of the law.

§ 1. Women are exempted from military service but are subject to such duties as the law may establish.

§ 2. The military obligation of clergymen shall be fulfilled in the services of the armed forces or by means of spiritual assistance to them.

§ 3. No Brazilian, after reaching the minimum military service age, established by law, may hold public office or employment in any state-controlled entity, society of mixed economy or undertaking holding a concession for public service, without producing proof of military enlistment, of being a reservist, or of enjoying exemption from such obligation.

§ 4. To favor the fulfillment of military obligations, "tiros de guerra" and other organs for the formation of reservists are permitted.

Art. 182 — Commissions, with the advantages and privileges therein inherent, are fully guaranteed not only to active officers and those of the reserve but also to the retired officers.

§ 1. Military rank, posts and uniforms are the exclusive right of the active, the reserve or the retired soldier.

§ 2. An officer of the Armed Forces shall lose his post and commission only by condemnatory sentence, pronounced by a judge, whose penalty restrictive of individual liberty exceeds two years; or, in the cases provided by law, if he is declared unworthy or incompatible with the rank of an officer, in accordance with decision of a military court of permanent character in peacetime, or of a special court during war, whether external or civil.

§ 3. The soldiers who, being in active duty of the armed forces, shall accept a permanent public position outside his career, shall be transferred to the reserve with the rights and duties defined by law.



§ 4. Any soldier on active duty who shall accept a temporary public office, whether elective or not, shall be added to the respective roster and shall only count trial service for promotion by seniority, transfer to the reserve, or retirement. After eight years of separation, continuous or not, he shall be transferred, as provided by law, to the reserve without prejudice to the counting of time for retirement.

§ 5. Any soldier receiving remuneration in payment of a permanent or temporary position, shall not be entitled to his regular salary, whether he be in active service, in the reserve or in retirement.

§ 6. The provisions of Arts. 192 and 193 are applicable to professional soldiers.

Art. 183 — The military police, instituted for the purpose of guaranteeing internal security and the maintenance of order in the States, the Territories and the Federal District, are deemed to be reserve auxiliary forces of the Army.

Sole Paragraph — When mobilized in the service of the Union, in time of civil war or war abroad, the personnel of the military police shall enjoy the same benefits as that of the Army.

## *Title Eight*

### **PUBLIC EMPLOYEES**

Art. 184 — Public offices (i.e., positions) are open to all Brazilians, with observance of the requirements of the law.

Art. 185 — The accumulation of any public posts is prohibited, except that provided for in Article 96, I, as well as the accumulation of two teaching positions, or of a teaching position and a scientific or technical one provided that there is correlation of subjects and compatibility of schedule.

Art. 186 — The first investiture in career offices, or in others which the law may provide shall be effected by competition followed by health inspection.

Art. 187 — The only appointments for life are those of magistrates, Ministers of Accounts Tribunal, officers of justice and university professors.

Art. 188 — The following shall have stability in their employment:

I — effective employees appointed by competition, after two years in office;

II — effective employees, appointed without competition, after five years in office.

Sole Paragraph — The provisions of this article do not apply to posts of confidence nor to those which the law may declare to be of free appointment and dismissal.

Art. 189 — Public employees shall lose their positions:

I — if holding a life appointment, only by virtue of a judicial sentence;

II — if having stability of employment, not only in the case provided for in the preceding item, but also if their offices are extinguished or if they are dismissed after an administrative process, in which they have been allowed the most ample defense.

Sole Paragraph — Should an office be extinguished, the employee who has stability of employment, shall go on an available list with pay, until he is obligatorily made use of

in another position whose nature and pay are compatible with that he had occupied.

Art. 190 — Should the dismissal of any employee be invalidated by a sentence, he shall be reinstated. Anyone who may have occupied his place shall be summarily removed or restored to his old position, but with no right to indemnization.

Art. 191 — Employees shall be retired:

a) — for invalidity;

b) — compulsorily, at the age of seventy.

§ 1. Any employee with more than thirty-five years of service may be retired at his request.

§ 2. Retirement salaries shall be in full, if the employee has had thirty years of service; and shall be in proportion if the employee has not attained this limit.

§ 3. Retirement salaries shall be in full when the employee becomes invalid on account of an accident sustained in the service, by reason of a professional illness or serious, contagious or incurable illness, specified by law.

§ 4. Having regard to the special nature of the work, the law can reduce the limits referred to in No. II, in the second paragraph of this article.

Art. 192 — The time of federal, state, or municipal public service shall be computed in full, for the purposes of placement on available lists and retirement.

Art. 193 — Inactivity income shall be adjusted whenever salaries of active employees are modified by reason of fluctuation of the purchasing power of the currency.

Art. 194 — Juridical persons of national public right are civilly responsible for any harm which their employees, as such, may cause to third parties.

Sole Paragraph — These persons shall have right of recourse of action against the employees causing the harm, if the latter are found to have been guilty.

## *Title Nine*

### **GENERAL PROVISIONS**

Art. 195 — The flag, the hymn, the seal and the arms in use on the date of promulgation of this Constitution are national symbols.

Sole Paragraph — The states and municipalities also may have their symbols.

Art. 196 — The diplomatic representation to the Holy See is maintained.

Art. 197 — The incompatibilities set forth in Article 48 extend insofar as may be applicable to the President and Vice President of the Republic, to the Ministers of State and to the members of the Judicial Power.

Art. 198 — For the execution of the defense plans against the effects of the so-called drought of the Northeast, the

Union shall spend, annually, upon works and services of social and economic assistance an amount never inferior to three per cent of all tax revenue.

§ 1. One-third of this amount shall be deposited in a special fund destined for the help of the populations affected by the calamity; this reserve, or part of it, may be invested at moderate interest in accordance with the provisions of law, in loans to farmers and industrialists established in the area embraced by the drought.

§ 2. The States within the drought area shall invest three per cent of their tax revenue in the construction of dams, on a cooperative basis, and in other services necessary to the assistance of their populations.

Art. 199 — In the execution of the plan to increase the



economic worth of the Amazon Valley, the Union shall invest, during at least twenty consecutive years, an amount not less than three per cent of its tax revenue.

**Sole Paragraph**—The States and Territories within that region, as well as their respective municipalities, shall reserve, annually, for the same purpose, three per cent of their tax revenue. The resources referred to in this paragraph shall be applied through the medium of the Federal Government.

**Art. 200**—Only by vote of an absolute majority of their members may the courts declare the unconstitutionality of a law or act of the public power.

**Art. 201**—Law-suits in which the Union be the plaintiff shall be judged in the capital of the State or Territory in which the other party is domiciled. Actions against the Union may be judged in the capital of the State or Territory in which the plaintiff has his domicile; in the capital of the State in which the deed or fact which gave origin to the claim occurred or in which the object be situated; or again, in the Federal District.

§ 1. Cases brought before other judges, if the Union shall figure therein as witness or opponent, shall come under the jurisdiction of one of the judges of the capital.

§ 2. The law may permit the action to be brought in another court, committing the judicial representation of the Union to the State Public Ministry.

**Art. 202**—Taxes shall be of a personal nature whenever possible, and shall be graduated according to the economic capacity of the taxpayer.

**Art. 203**—No tax shall fall directly upon author's royalties of writers nor on the remuneration of teachers and journalists.

**Art. 204**—Payments due by the Federal, State or Municipal Treasuries by virtue of judicial sentence, shall be made in the order of presentation of the claims and be charged against the respective credits, it being forbidden to designate cases or persons in the budget allocations and extra-budgetary credits opened for this purpose.

**Sole Paragraph**—The budget allocations and credits opened shall be consigned to the Judicial Power, the amounts being paid to the competent department. It is the responsibility of the president of the Federal Court of Appeals or, according to the case, president of the Tribunal of Justice, to issue orders of payment according to the possibilities of the deposit and to authorize upon requisition of any creditor deferred in his right of precedence, and after hearing the Chief of the Public Ministry, the sequestration of the amount necessary to satisfy the debit.

**Art. 205**—The National Council of Economy is hereby created, and its organization shall be regulated by law.

§ 1. Its members shall be appointed by the President of the Republic, after approval of the selection by the Federal Senate, from among citizens of notable competence in economic affairs.

§ 2. It is incumbent on the Council to study the economic life of the country and to suggest to the competent authority the measures that it may deem necessary.

**Art. 206**—The National Congress may decree martial law in the following instances:

I—serious domestic commotion, or facts evidencing its imminence;

II—external war.

**Art. 207**—The law decreeing martial law in the case of external war or in the case of serious domestic commotion with the character of civil war, shall also establish the norms its execution should follow, and shall indicate the constitutional guaranties that will continue in effect. It shall also specify the cases where crimes against

the security of the nation or its political or social institutions are to become subject to military jurisdiction and legislation, when committed by civilians, but outside of the zones of operation only when related to them (zones of operation) and having a bearing on their development.

**Sole Paragraph**—When the martial law has been published, the President of the Republic shall designate in a decree the persons in charge of its execution, and the zones of operation that, in accordance with the aforesaid Decree, shall be submitted to military jurisdiction and legislation.

**Art. 208**—In the interval between legislative sessions, it shall be the exclusive prerogative of the President of the Republic to decree or extend the martial law, with observance of the provisions of the preceding article.

**Sole Paragraph**—After martial law has been decreed, the President of the Senate shall immediately convoke the National Congress to meet within fifteen days to approve or disapprove the law.

**Art. 209**—During the martial law decreed in accordance with Number I, Article 206, only the following measures may be taken against individuals:

I—obligation to remain in a determined locality;

II—detention in buildings not destined for common criminals;

III—banishment to any locality, populated and healthful, of the national territory.

**Sole Paragraph**—The President of the Republic may moreover determine:

I—censorship of correspondence or publicity, including that of radio broadcasting, cinema and theater;

II—the suspension of the right to hold meetings, including that exercised by associations within their own premises;

III—the search and apprehension in private houses;

IV—suspension from office or employment of any public official or employee of any autarchy, or entity of mixed economy, or concern holding concession for public services;

V—intervention in the public service concerns.

**Art. 210**—Martial law in the case of Number I, Article 206, may not be decreed for more than thirty days, nor may it be extended, in each instance, for more than this period. In the case of Number II, it may be decreed for as long as the external war shall last.

**Art. 211**—When martial law be decreed by the President of the Republic, in accordance with Art. 208, the latter, as soon as the National Congress is assembled, shall, in a special message, relate the motives which determined such action and shall justify the measures that may have been adopted. The National Congress, in secret session, shall then deliberate upon the decree issued in order to revoke it or maintain it, taking note, also, of the Government's action according to the information furnished and, when necessary, authorizing the extension of the measure.

**Art. 212**—The decree of martial law shall always specify the regions it is to cover.

**Art. 213**—The immunities of the members of the National Congress shall continue during martial law; nevertheless, the immunities of certain Deputies or Senators whose liberty becomes manifestly incompatible with the National defense or with the security of political or social institutions, may be suspended by vote of two-thirds of the members of the Chamber or of the Senate.

**Sole Paragraph**—In the interval between legislative sessions, the authorization shall be given by the President of the Chamber of Deputies or by the Vice-President of the Federal Senate, according as members of one or other Chamber are involved, but ad referendum by the respective Chamber, which should immediately be convoked to meet within fifteen days.



Art. 214 — When the martial law has expired, its effects shall also cease.

*Sole Paragraph* — As soon as the martial law shall end, the measures applied during the period of its effectiveness shall be reported by the President of the Republic in a message to the National Congress, with specification and justification of the measures adopted.

Art. 215 — Failure to observe the provisions of Articles 206 to 215 shall make the restraint illegal, and shall allow the parties restrained to appeal to the Judicial Power.

Art. 216 — The possession of lands by aborigines who may be permanently dwelling there, shall be respected, provided that they do not sell them.

Art. 217 — The Constitution may be amended.

§ 1. An amendment shall be considered proposed, if presented by at least one-fourth of the members of the Chamber of Deputies or of the Federal Senate, or by more than one-half of the Legislative Assemblies of the States, in the course of two years, each of these manifesting itself by majority of its members.

§ 2. An amendment shall be considered accepted if it be approved in two discussions by an absolute majority of the Chamber of Deputies and of the Federal Senate, in two ordinary, consecutive legislative sessions.

§ 3. If the amendment shall obtain in one of the Chambers, in two discussions, the vote of two-thirds of its members, it shall immediately be submitted to the other; and if approved in this Chamber by the same process, and by equal majority, it shall be considered accepted.

§ 4. The amendment shall be promulgated by the Boards of the Chamber of Deputies and of the Federal Senate. After publication, over the signatures of the members of both Boards, it shall be appended, with its respective sequence number, to the text of the Constitution.

§ 5. The Constitution shall not be modified while martial law is in force.

§ 6. Bills tending to abolish the Federation and the Republic shall not be admitted to consideration.

Art. 218 — This Constitution, and the act of the Constitutional transitory provisions, after they have been signed by the Deputies and Senators present, shall be promulgated simultaneously by the Administration of the Constituent Assembly, and shall become effective on the date of their publication.

In the Meeting Hall of the Constitutional Committee, September 9, 1946:

Rio de Janeiro, 18th September 1946, 125th year of the Independence and 58th of the Republic. — (signed) — Fernando de Mello Vianna, President; Georgino Avelino, 1st Secretary; Lauro Sodré Lopes, 2nd Secretary; Lauro Montenegro, 3rd Secretary; Ruy Almeida, 4th Secretary; Carlos Marighella; Hugo Ribeiro Carneiro; Hermelindo de Gusmão Castello Branco Filho; Alvaro Maia; Waldemar Pedrosa; Leopoldo Péres; Francisco Pereira da Silva; Cosme Ferreira Filho; J. Magalhães Barata; Alvaro Adolpho; Duarte de Oliveira; Lameira Bittencourt; Carlos Nogueira; Nelson Parijos; João Botelho; José da Rocha Ribas; Clodomir Cardoso; Crepory Franco; Victorino Freire; Odilon Soares; Luis Carvalho; José Neiva; Afonso Mattos; Mauro Renault Leite; Raimundo de Areia Leão; Sigefredo Pacheco; Moreira da Rocha; Antonio da Frota Gentil; Francisco de Almeida Monte; Oswaldo Studart Filho; Raul Barbosa; Deoclecio Dantas Duarte; José Varella; Walfredo Gurgel; Mota Neto; Janduhy Carneiro; Samuel Duarte; José Joffily; A. de Novais Filho; Etelvino Lins de Albuquerque; Agamemnon Magalhães; Jarbas Maranhão; Gercino Malaguetta de Pontes; Oscar Carneiro; Oswaldo C. Lima; Costa Porto; Ulysses Lins de Albuquerque; João Ferreira Lima; Barbosa Lima Sobrinho; Paulo Pessôa Guerra; Teixeira de Vasconcellos; Ismar de Gois Monteiro; Silvestre Péricles; Luiz Medeiros Neto; José Maria de Mello; Antonio M. Maffra; Afonso de Carvalho; Francisco Leite Neto; Graccho Cardoso; Renato

Aleixo; Lauro de Freitas; Aloysio de Castro; Regis Pacheco; Arthur Negreiros Falcão; Altamirando Requião; Eunapio de Queiroz; Vieira de Mello; Froes da Motta; Aristides Milton; Attilio Vivacqua; Henrique de Novaes; Ary Vianna; Carlos Lindenberg; Eurico Salles; Vieira de Rezende; Alvaro Castello; Asdrubal Soares; Jonas Correia; José Fontes Romero; José Carlos Pereira Pinto; Alfred Neves; Ernani do Amaral Peixoto; Eduardo Duvivier; Carlos Pinto; Paulo Fernandes; Getulio Moura; Heitor Collet; Silvio Bastos Tavares; Accurcio Francisco Torres; Brígido Tinoco; Miguel Couto Filho; Levindo Eduardo Coelho; Benedicto Valladares; Juscelino Kubitschek de Oliveira; J. Rodrigues Seabra; Pedro Dutra; José Francisco Bias Fortes; Israel Pinheiro; Gustavo Capanema; Francisco Duque de Mesquita; Wellington Brandão; José Maria Alkmim; Augusto das Chagas Viegas; João Henrique; Joaquim Libanio Leite Ribeiro; Celso Porfírio de Araujo Machado; Olyntho Fonseca Filho; Francisco Rodrigues Pereira Junior; Lahyr Paletta de Rezende Tostes; Alfredo Sá; Christiano M. Machado; Luiz Milton Prates; Goffredo da Silva Telles Junior; Novelli Junior; Antonio Ezequiel Feliciano da Silva; José Cezar de Oliveira Costa; Benedicto Costa Netto; José Armando Affonseca; João Gomes Martins Filho; Sylvio Campos; Horacio Lafer; José João Abdalla; Joaquim A. Sampaio Vidal; José Carlos de Ataliba Nogueira; José Alves Palma; Honorio Fernandes Monteiro; J. Machado Coelho e Castro; Edgard Baptista Pereira; Pedro Ludovico Teixeira; Dario Delio Cardoso; Flavio Carvalho Guimarães; Diogenes Magalhães; João d'Abreu; Albatenio Caiado Godoi; Galeno Paranhos; Guilherme Xavier de Almeida; J. Ponce de Arruda; Gabriel Martiniano de Araujo; Argemino Fialho; Roberto Glasser; Fernando Flores; Munhoz de Mello; João Aguiar; Aramis Athayde; Gomy Junior; Nereu Ramos; Ivo d'Aquino; Aderbal Silva; Octacilio Costa; Orlando Brasil; Roberto Grossenbacher; Rogerio Vieira; Hans Jordan; Ernesto Dornelles; Gaston Englert; Adroaldo Costa; Brochado da Rocha; Eloy Rocha; Theodormiro Porto da Fonseca; Damaso Rocha; Antero Leivas; Manoel Duarte; Souza Costa; Bittencourt Azambuja; Nicolay Vergueiro; Glycerio Alves; Mercio Teixeira; Daniel Faraco; Pedro Vergara; Herophilo Azambuja; Bayard Lima; Manuel Severiano Nunes; Agostinho Monteiro; Epilogo de Campos; Alarico Nunes Pacheco; Antenor Bogéa; Mathias Olympio; José Candido; Antonio Maria de Rezende Corrêa; Ademar Rocha, Coelho Rodrigues; Plinio Pompeu; Fernandes Tavora; Paulo Sarasate; Gentil Barreira; Beni Carvalho; Egberto Rodrigues; Fernandes Telles; José de Borba; Leão Sampaio; Alencar Araripe; Edgard de Arruda; J. Ferreira de Souza; José Augusto Bezerra de Medeiros; Aluisio Alves; Adalberto Ribeiro; Vergniaud Wanderley; Argemiro de Figueiredo; João Agripino Filho; João Ursulo; Ribeiro Coutinho Filho; Ernani Ayers Satyro e Souza; Plinio Lemos; Fernando Carneiro da Cunha Nobrega; Osmar de Araujo Aquino; Carlos de Lima Cavalcanti; Alde Feijo Sampaio; João Cleophas de Oliveira; Gilberto de Mello Freyre; Antonio de Freitas Cavalcanti; Mario Gomes de Barros; Rui Soares Palmeira; Walter Franco; Leandro Maciel; Heribaldo Viêira; Aloysio de Carvalho Filho; Juracy Magalhães; Octavio Mangabeira; Manoel Novães; João da Costa Pinto Dantas Junior; Clemente Mariani Bittencourt; Raphael Cincura de Andrade; João Mendes da Costa Filho; Luiz Viana; Alberico Fraga; Nestor Duarte; Aliomar de Andrade Baleeiro; Ruy Santos; Luiz Claudio; Hamilton de Lacerda Nogueira; Euclides Figueiredo; Jurandyr Pires; José Eduardo de Prado Kelly; Dr. Antonio José Romão Junior; José de Carvalho Leomil; José Monteiro Soares Filho; José Monteiro de Castro; José Bonifacio Lafayette de Andrada; José Maria Lopes Cançado; José de Magalhães Pinto; Gabriel de R. Passos; Milton Soares Campos; Lycurgo Leite Filho; Mario Masagão; Paulo Nogueira Filho; Romeu de Andrade Lourenção; Plinio Barreto; Luiz de Toledo Piza Sobrinho; Aureliano Leite; Jalles Machado de Siqueira; Vespasiano Martins; João Villasbôas; Dolor Ferreira de Andrade; Dr. Agrícola Pães de Barros; Erasto Gaertner; Tavares d'Amaral; Conego Thomas Fontes; José Antonio Flores da Cunha; Osorio Tuyuty de Oliveira Freitas; Leopoldo Neves; Luiz Lago de Araujo; Benjamin Miguel Farah; M. do N. Vargas Netto; Fran-



cisco Gurgel do Amaral Valente; José de Segadas Vianna; Manoel Benicio Fontenelle; Paulo Baeta Neves; Antonio José da Silva; Edmundo Barreto Pinto; Abelardo dos Santos Mata; Jarbas de Lery Santos; Ezequiel da Silva Mendes; Alexandre Marcondes Filho; Hugo Borghi; Guaracy Silveira; José Correia Pedroso Junior; Romeu José Fiori; Bertho Condé; Euzebio Rocha; Mélo Braga; Arthur Fischer; Gregorio Bezerra; Agostinho Oliveira; Alcedo Coutinho; Luiz Carlos Prestes; João Amazonas; Mauricio Grabois; Joaquim Baptista Neto; Claudino J. Silva; Alcides Sabença;

Jorge Amado; José Chrispim; Oswaldo Pacheco da Silva; Caires de Brito; Abilio Fernandes; Lino Machado; Souza Leão; Durval Cruz; Amando Fontes; Jacy de Figueiredo; Daniel de Carvalho; Mario Brant; A. Bernardes Filho; Philippe Balbi; Arthur Bernardes; Altino Arantes; Munhoz da Rocha; Deodoro Machado de Mendonça; Olavo Oliveira; Stenio Gomes; João Adeodato; Café Filho; Theodulo Albuquerque; Romeu de Campos Vergal; Dr. P. Alfredo de Arruda Camara; Manoel Victor; Hermes Lima; Domingos Velasco; Raul Pilla.

*The Constituent Assembly decrees and promulgates the following*

**ACT OF CONSTITUTIONAL TRANSITORY PROVISIONS**

Art. 1 — After promulgation of this Act, the Constituent Assembly shall, on the following day, elect the Vice-President of the Republic for the first constitutional period.

§ 1. Such election, for which none shall be ineligible, shall be made by secret scrutiny and shall, on the first ballot, be by absolute majority of votes, or if none of the voted candidates obtain it, by relative majority the second time.

§ 2. The Vice-President elect shall take office before the Assembly on the same date, or else before the Federal Senate.

§ 3. The mandate of the Vice-President shall terminate simultaneously with that of the first presidential period.

Art. 2. — The mandate of the President of the Republic in office (Art. 82 of the Constitution) shall count as from the date of his taking office.

§ 1. The mandates of the present deputies and those of the federal senators who where elected in order to complete the number prescribed by Paragraph 1 of Art. 60 of the Constitution, shall coincide with that of the President of the Republic.

§ 2. The mandates of the other senators shall terminate on 31st January 1955.

§ 3. The mandates of the governors and of the deputies to the Legislative Assemblies, as well as those of the municipal councilors in the Federal District, elected in accordance with Art. 11 of this Act, shall expire on the same date as that of the President of the Republic.

Art. 3 — The Constituent Assembly, after fixing the pecuniary grant of the President and Vice-President of the Republic, for the first constitutional period, as per Art. 86 of the Constitution, shall consider its mission completed and shall be separated into the Chamber (of deputies) and the Senate, which shall initiate the exercise of their respective legislative powers.

Art. 4 — The Capital of the Union shall be moved to the central plateau of the country.

§ 1. Within sixty days from the promulgation of the present Act, the President of the Republic shall appoint a committee of technicians of recognized skill to proceed with the study of the prospective site for the new capital.

§ 2. The study referred to in the preceding paragraph shall be sent up to the National Congress which shall deliberate thereon and frame a special law, and shall establish the time limit in which to begin the delimitation of the area to be incorporated into the domain of the Union.

§ 3. Upon the completion of the work of demarkation, the National Congress shall decide upon the date of removal of the capital.

§ 4. The transfer (of the capital) having been made, the present Federal District shall constitute the State of Guanabara.

Art. 5 — Federal intervention in the case of Item No. VI

of Art. 7 of the Constitution, with reference to the States in arrears with the payment of their funded debt, cannot be effected earlier than two years from the date of promulgation of this Act.

Art. 6 — Within three years from the promulgation of this Act, the States shall undertake, by mutual agreement, the remarkation of their boundaries, being permitted, for this purpose, to make alterations and compensations of areas in accordance with the natural features of the terrain, administrative conveniences and the convenience of the frontier populations.

§ 1. If the States interested so request, the Government of the Union shall entrust the work of demarkation to the Geographical Service of the Army.

§ 2. If such States do not comply with the requirements of this article, the Federal Senate shall deliberate with respect thereto, without prejudice to the competence established by Art. 101, No. 1, letter e) of the Constitution.

Art. 7 — The cattle ranches belonging to the domain of the Union, situated in the territory of the state of Piauí, and remaining from confiscation of the Jesuits during the colonial period, shall become the property of that State.

Art. 8 — The present Territories of Iguacu and Ponta Pora are hereby declared extinct, their respective areas returning to the States from which they were dismembered.

Sole Paragraph — The judges and, when enjoying stability in office, the members of the Attorney General's Office in the Territories now extinct, shall continue on the available list, with pay, until able to be utilized in federal or state posts, the nature of which, as well as the corresponding remuneration, may be compatible with those which they were occupying at the date of the promulgation of this Act.

Art. 9 — The Territory of Acre shall be raised to the category of a State, with the name of State of Acre, as soon as its revenues become equal to those of the State which presently brings in the lowest return.

Art. 10 — The provisions of Art. 56 of the Constitution do not apply to the Territory of Fernando de Noronha.

Art. 11 — On the first Sunday after one hundred and twenty days, counted from the promulgation of this Act, there shall take place, in each State, the election of the Governor and of the Deputies to the Legislative Assemblies, which, at the beginning, shall have a constituent function.

§ 1. In the first election, the number of deputies to the State Assemblies shall be as follows: Amazonas, thirty; Pará, thirty-seven; Maranhão, thirty-six; Piauí, thirty-two; Ceara, forty-five; Rio Grande do Norte, thirty-two; Paraíba, thirty-seven; Pernambuco, fifty-five; Alagoas, thirty-five; Sergipe, thirty-two; Bahia, sixty; Espírito Santo, thirty-two; Rio de Janeiro, fifty-four; São Paulo, seventy-five; Paraná, thirty-seven; Santa Catarina, thirty-seven; Rio Grande do Sul, fifty-five; Minas Gerais, seventy-two; Goiás, thirty-two and Mato Grosso, thirty.



§ 2. Elections shall be held on the same date:

I — in the States and in the Federal District;

a) for the third Senatorial seat and the alternates as prescribed by Art. 60, paragraphs 1, 3 and 4 of the Constitution;

b) for the party alternates of the Senators elected on 2nd December 1945, if, in respect of these, no vacancy has taken place;

II — for the federal deputies, to complete the requisite number in those States where the number of representatives to the Chamber of Deputies may not correspond to that established in the Constitution, taking as a basis the last official estimate of the Institute of Geography and Statistics;

III — for one federal deputy in the Territories, Acre and Fernando de Noronha being excepted;

IV — for fifty municipal councillors in the Federal District;

V — for the completion of existing vacancies, or any which may occur, up to thirty days before the poll, in the respective electoral zones, and for the alternates themselves in the case of Senators.

§ 3. In the elections referred to in this article, the political parties, in each State, may enter two candidates more than the number of deputies to be elected to the Federal Chamber. The successful alternates in the election shall substitute those who were elected in the terms of Paragraph 2, in the cases mentioned in the Constitution and in the law, as also those, of the same political party, whose list of alternates may have become exhausted.

§ 4. The entry of the same candidate for more than one State shall not be permitted.

§ 5. The Electoral High Court shall take steps to ensure compliance with this article and its preceding paragraphs. In the exercise of this prerogative, the same Court shall fix, in accordance with official statistical information, the number of new seats in the federal representation, taking into account the criterion established in Art. 58 of the Constitution and its two paragraphs.

§ 6. The mandate of least duration shall be that of the third senator. If more than one senator be elected by the same state or by the Federal District, the mandate of longest duration shall be that of the one receiving the most votes.

§ 7. In the elections referred to in this article, the only disqualifications shall be:

I — for governor:

a) the Ministers of State who may have been in office during three months prior to the election;

b) those who, up to eighteen months before the election, may have exercised the office of President of the Republic or, in the respective State, even if only in an acting capacity, that of Governor or Interventor; and also the secretaries of States, commanders of military zones, chiefs and commanders of police, magistrates and the head of the Attorney General's Office, who may have been engaged in these functions at any time during the two months immediately preceding the election;

II — for Federal Senators and Deputies and their respective alternates, those who, up to six months prior to the election, may have exercised the office of Governor or Interventor in the respective State, and the other authorities referred to in No. I who may have been occupying these posts at any time during the two months immediately preceding the election;

III — for deputies to the State Assemblies, the authorities referred to in No. I letters a) and b) (second part) who may have been occupying these posts at any time during the two months immediately preceding the election;

IV — for Councillors to the Municipal Chamber of the Federal District, the Mayor and the authorities referred to in No. I, letters a) and b) (second part), who may have been occupying these posts at any time during the two months immediately preceding the election.

§ 8. After receiving their diplomas, the deputies to the State Assemblies shall meet, within ten days, presided over by the President of the Regional Electoral Court, by convocation of the latter, who shall set in motion the election of the Board.

§ 9. Any State which, up to four months after the installation of its Assembly, may not have decreed its Constitution, shall, by deliberation of the National Congress, be submitted to the Constitution of whichever other State may be deemed most suitable, until it has been amended by the process determined therein.

Art. 12 — Pending the promulgation of the State Constitutions and in the case of the Federal District, the decreeing of its Organic Law, the States and Municipal districts shall be administered in accordance with the legislation in force at the date of promulgating this Act.

Sole Paragraph — Within ten days counted from their official publication, any citizen may appeal to the President of the Republic from the Acts of the Interventors; and, on the same terms, to the Interventor, from the acts of the Municipal Mayors.

Art. 13 — The discrimination of revenues established in Arts. 19 to 21 and 29 of the Federal Constitution shall come into force on January 1st, 1948, in so far as it modifies the previous regime.

§ 1. The States which levy exportation taxes higher than the limit allowed by Art. 19, No. V, shall reduce the excess gradually, within a period of four years, except in the case referred to in Paragraph 6 of that article.

§ 2. As from 1948, the following shall be made gradually effective:

I — in the course of two years, the requirements of Art. 15, paragraph 4, whereby the Union shall hand over to the Municipal districts half of the quota in the first year and the entire quota in the second year;

II — in the course of four years, the abolition of any taxes which, under the Constitution, may not be included in the powers of the governments collecting them at present;

III — in the course of ten years, the provisions contained in Art. 20 of the Constitution.

§ 3. The federal or state law, in accordance with the case, may establish a shorter period for the fulfilment of the provisions indicated in the previous paragraphs.

Art. 14 — For composition of the Federal Court of Appeals, in the part constituted by magistrates, the Federal Supreme Court shall indicate, in order that they may be appointed by the President of the Republic, up to three of the sectional judges and substitutes of the extinct Federal Justice, if they meet the requirements of Art. 99 of the Constitution. The indication shall be made, whenever possible, in a duplicate list for each case.

§ 1. Immediately after the termination of the period mentioned in Art. 3, the National Congress shall fix, by law, the salaries of the Judges of the Federal Court of Appeals; and, within thirty days from sanctioning or promulgating the same law, the President of the Republic shall make the respective appointments.

§ 2. When the Court has been installed, it shall elaborate its internal regime and shall provide for the organization of its secretariat, registry offices, and other services, and shall propose to the National Congress the creation of the Administrative offices, and the fixing of the respective remunerations (Constitution, Art. 97, No. II).

§ 3. Pending the functioning of the Federal Court of Appeals, the Federal Supreme Court shall continue to judge all the cases which come within its province, in the terms of the previous legislation.

§ 4. When the law provided for in § 1 has been voted, the Federal Supreme Courts shall forward to the Federal Court of Appeals all cases incumbent upon the latter which do not bear the visa of the respective reporter.



§ 5. The embargos against the sentences pronounced by the Federal Supreme Court shall continue to be prosecuted and judged by that Court.

Art. 15 — Within ten days counted from the promulgation of this Act, the Electoral Court of Justice shall be organized in the terms of Heading I, Chapter IV, Section V of the Constitution.

§ 1. For the composition of the Electoral Superior Court, the Tribunal of Justice of the Federal District shall elect, by secret ballot, from amongst its judges, one effective member, as well as two provisional members, who shall continue in office until such time as the Federal Court of Appeals may comply with the requirement (of Art. 110, No. I, letter b) of the Constitution.

§ 2. After the Electoral Courts have been installed, they shall proceed in the manner indicated in Paragraph 2 of Art. 14 of this Act.

§ 3. In the filling of offices of the Secretariats of the Electoral Supreme Courts and of the Regional Electoral Courts, the effective office holders of the tribunals extinguished on November 10, 1937, shall be utilized, if they should still be in the active service of the Union, and request it; and to complete the respective rosters, the personnel which at present makes up the secretariats of the same tribunals shall be utilized.

§ 4. Until the secretariats of these Tribunals have been definitely organized, the personnel to which the final sentence of paragraph 3 of this Article alludes, shall continue in office.

Art. 16 — As from January 1st, 1947, the magistrates of the Federal District and of the States shall begin to receive the emoluments fixed in accordance with what the Constitution establishes.

Art. 17 — The present Maritime Court shall continue with the organization and the prerogatives attributed to it by current legislation, until such time as the federal law may deal with this matter in accordance with the terms of the Constitution.

Art. 18 — Brazilians who, in the last war, rendered military service to the Allied Nations, even without the permission of the Brazilian government, shall not forfeit their nationality, nor shall minors who, in the same manner, may have served other Nations.

Sole Paragraph — The present employees of the Union, the States, and the Municipal districts, who formed part of the Brazilian expeditionary forces, are considered to have stability of employment.

Art. 19 — Those who may have acquired Brazilian nationality during the validity of previous Constitutions and may have exercised any elective mandate whatsoever, is eligible to occupy posts as representative of the people, excepting those of President and Vice-President of the Republic and of State Governor.

Art. 20 — The precept of the sole paragraph of Art. 155 of the Constitution does not apply to naturalized Brazilians who, on the date of this Act, were exercising the professions to which the said paragraph refers.

Art. 21 — The utilization of waterfalls, already being used for industrial purposes on July 16, 1934 (Translator's note: the date of the penultimate Constitution) and, by the same token, the exploitation of mines in production, even if temporarily suspended, does not depend upon concession or authorization; but such utilization and exploitation remain subject to the regulations and to the revision of contracts, as prescribed by law.

Art. 22 — The provisions of Art. 182, paragraph 1 of the Constitution do not prejudice concessions which may have been granted prior to this Act and which are maintained or re-established.

Art. 23 — The present temporary employees of the Union, of the States, and the Municipalities having at least five years of service, shall automatically be made effective on the date of promulgation of this Act; and the present supernumeraries who may be exercising a function of permanent character for more than five years, or (who may be exercising the function) by virtue of a contest or test of ability, shall be placed on the same level as officeholders for purposes of stability, retirement, leave, availability, and vacations.

Sole Paragraph — The provisions of this article do not apply to:

I — those who may temporarily exercise life-tenure offices considered as such in the Constitution;

II — those who may hold office for the filling of which a contest may have been held with registration closed on the date of the promulgation of this Act;

III — those who may have been disqualified in a contest for the post occupied.

Art. 24 — The employees who, in accordance with the legislation then in force, accumulated technical and scientific teaching posts and who forfeited their effective employment by virtue of the prohibition to retain more than one post, established in the Charter of November 10th, 1937 and Decree-Law No. 24 of December 1st, of the same year, are hereby deemed to be on the available list, with pay, until such time as their services may be utilized again, without, however, any right to salary prior to the date of promulgation of this Act.

Sole Paragraph — The retirement benefits are hereby restored to those who lost them by virtue of the Decree mentioned, but also, without any right to salary prior to the date of promulgation of this Act.

Art. 25 — The employees of the Secretariats of the Legislative Chambers are assured the right to receive additional bonuses for the time they are in the public service.

Art. 26 — The Chair Officers of the Constituent Assembly shall issue diplomas of effective appointment to the temporary employees in the Secretariats of the Federal Senate and the Chamber of Deputies occupying vacant offices, who up to September 3rd, 1946, rendered services during the work of drawing up the Constitution.

Sole Paragraph — Those serving in an acting capacity up to the date mentioned and not benefited by the provisions of this Article, shall be utilized to fill the first vacancies which may occur.

Art. 27 — During the period of fifteen years, counted from the installation of the Constituent Assembly, the real estate acquired for his residence by a journalist, who possesses no other, shall be exempt from the transfer tax, and, as long as it serves the purpose envisioned in this article, from the respective buildings tax.

Sole Paragraph — For the effects of this article, a journalist shall be considered as one who proves that he is in the exercise of the profession, in accordance with legislation in force, or has been pensioned therein.

Art. 28 — Amnesty is hereby granted to all citizens considered to be deserters or to have failed to present themselves for military service up to the date of promulgation of this Act, being likewise extensive to any workers who have undergone disciplinary punishment as a consequence of strikes or labour disputes.

Art. 29 — The Federal Government is obligated, within a period of twenty years, counted from the date of promulgation of this Constitution to prepare and execute a scheme for the total utilization of the economic possibilities of the River São Francisco and its tributaries, in which it shall apply, annually, an amount not less than one percent of its revenue from taxes.



Art. 30 — Those, who availed themselves of the right to present claims, instituted by the sole paragraph of Art. 18 of the Transitory Provisions of the Constitution of July 16th, 1934, are assured the right to plead before the Judicial Power for recognition of their rights, except with respect to remuneration in arrears, and all prescriptions shall be forgiven in this manner, providing that the following requirements are fulfilled:

I — to have obtained in the respective cases, a favorable and final opinion of the Revisory Commission, referred to in Decree No. 254 of August 1st, 1935;

II — the Executive Power not having acted in accordance with opinion of the Revisory Committee, with the object of restoring the rights of the claimants.

---

Translator's note. The Sole Paragraph of Art. 18 of the Transitory Provisions of the Constitution of 16th July 1934 read as follows:

"Sole Paragraph — The President of the Republic shall organize at an opportune moment, one or various committees presided over by federal judges, with life-appointments who, appraising, without special legal formality, the claims of the interested parties, shall issue a considered opinion as to the convenience of their services being utilized in the posts or public functions, which they held or discharged and from which they may have been removed by the Provisional Government, or its Delegates, or in other corresponding posts, as soon as possible, payment of salaries in arrears or of any indemnifications whatsoever being in every case excluded".

Art. 31 — The incorporation into the patrimony of the Union of the goods given in guarantee, by those benefited by the financing of the cotton crops, from the 1942 crop to the 1945 and 1946 crops, shall not be liable to judicial consideration.

Art. 32 — Within two years, counted from the promulgation of this Act, the Union shall conclude the (construction of) Rio-Northeast highway.

Art. 33 — The Government shall cause to be erected in the Capital of the Republic, a monument to Rui Barbosa, in consecration of his services to the Fatherland, to liberty and to justice.

Art. 34 — The honors of Marshal of the Brazilian army are hereby conferred upon General of Division João Batista Mascarenhas de Moraes, Commander of the Brazilian Expeditionary Forces in the last war.

Art. 35 — The Government shall appoint a committee of professors, writers and journalists in order that they may give their opinion on the denomination of the national language.

Art. 36 — This Act shall be promulgated by the Chair Officers of the Constituent Assembly in the form prescribed by Art. 218 of the Constitution.

Rio de Janeiro, 18th September 1946

---

Note: The signatories to the above Act were the same as those who signed the Constitution.